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TITLE Parents' Committee of Public School No. 19, et al., Plaintiffs, Against Community School Board of Community Board District No. 14 of the City of New York, et al., Defendants. Notice of Motion for Preliminary Injunction, Complaint with Affidavits, and Memorandum in Support of Motion for Preliminary Injunction.

INSTITUTION District Court, New York, NY. Eastern District of New York.

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ABSTRACT

The plaintiffs are some 30 Puerto Rican and Hispanic parents and their 57 minor children who attend Public School 19 (hereinafter P.S. 19) in Brooklyn. The defendants are the members of the Community District School Board Number 14 and of the New York City Board of Education. The Community Superintendent William Rogers and Chancellor Irving Anker are also defendants. The complaint charges defendants with discriminatorily denying plaintiffs an equal educational opportunity. Defendants have continually maintained split-session classes at P.S. 19 since the 1964-1965 school year. The maintenance of these classes has caused plaintiffs to lose one hour a day of education or effectively a day a week of instruction. In response to the filing of this lawsuit, six defendant members of the Community School Board passed a resolution calling for the transfer of some of the fourth and all of the fifth grade classes to Public School 122. If defendants' plan is not enjoined, plaintiffs will attend three separate elementary schools in three separate neighborhoods before entering seventh grade in a junior high school. The educators who have submitted affidavits to the Court all attest to the serious and irreparable harm that will result if the transfer is not enjoined. On June 12, 1974 the parents at P.S. 19 voted almost unanimously against the transfer. The parents favor use of the Community School District offices. (Author/JM)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF
PUBLIC SCHOOL #199, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF
COMMUNITY SCHOOL DISTRICT #24
OF THE CITY OF NEW YORK, et al.,

Defendants.

74-C-[illegible] (JBW)

MEMORANDUM IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION

BEST AVAILABLE
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF
PUBLIC SCHOOL # 178, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF
COMMUNITY SCHOOL DISTRICT # 14
OF THE CITY OF NEW YORK, et al.,

Defendants.

74 Civ. 783 (JBW)

MEMORANDUM IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION

PRELIMINARY STATEMENT

This memorandum of law is submitted in support of a motion for preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure. Also before the Court are the affidavits of four educators: Dr. Ruth Adams, a Professor of Education at City College; Professor Carmen Dinos, an Assistant Professor of Education at Brooklyn College; Dr. Michael Stewart McColgan, a bi-lingual education consultant; and Dr. Dorey D. Wilkerson, Professor Emeritus of Yeshiva University and Vice-President of Median Associates, Inc. as well as the affidavit of Julian Neski, a licensed and registered architect and partner of Neski Associates. All these affiants are recognized experts in their fields. Kenneth Kimerling, an attorney for plaintiffs has also submitted an affidavit in support of plaintiffs' motion.

The complaint was filed on May 22, 1974 and the answer was filed with an extension on July 22, 1974.

STATEMENT OF FACTS

The plaintiffs are some 38 Puerto Rican and Hispanic parents and their 57 minor children who attend Public School 19 (hereinafter P.S. 19) in Brooklyn. The defendants are the members of the Community District School Board #14 and of the New York City Board of Education. The Community Superintendent Willian Rogers and Chancellor Irving Baker are also defendants.

The complaint charges defendants with discriminatorily denying plaintiffs an equal educational opportunity. Defendants have continually maintained split-session classes at P.S. 19 since the 1961-1962 school year. The maintenance of these classes has caused plaintiffs to lose one hour a day of education or effectively a day a week of instruction.

In response to the filing of this lawsuit, six defendant members of the Community School Board passed a resolution calling for the transfer of some of the fourth and all of the fifth grade classes to Public School 122 (hereinafter P.S. 122). This proposed transfer follows a mid-semester transfer of the sixth grade to Public School 17 (hereinafter P.S. 17) in November 1972. If defendants' plan is not enjoined, plaintiffs will attend 3 separate elementary schools in three separate neighborhoods before entering 7th grade in a junior high school. The educators who have submitted affidavits to the Court all attest to the serious and irreparable

harm that will result if the transfer is not enjoined.

P.S. 122, the school to which the children are to be transferred, is an obsolete and hazardous facility. Following a successful boycott by parents in February, 1967, school officials agreed to move the children to Intermediate School 71 when it was completed. In 1970 the children were temporarily moved to I.S. 71 while a new school, Public School 388, is being built for them. P.S. 122 is now almost empty, being used by some 300 students for a special bilingual program. An architect, who has built two schools for the City, visited P.S. 122 on July 26, 1974 and found that the numerous Building Code violations make it a fire hazard. The school has been recognized by school officials for a number of years to be an obsolete educational facility.

On June 12, 1974 the parents at P.S. 19 voted almost unanimously against the transfer. According to the President of the Parents Association, a plaintiff herein, the parents view the transfer to this obsolete facility as just a further discriminatory action by the defendants. (See Affidavit of Maria [illegible]). The parents favor the use of the Community School District offices which are housed in a reconditioned parochial school a block away from P.S. 19. This building could have been used as a school space when it was leased in 1971, but instead the Board had it reconverted for offices at a cost of $300,000.

The school year is scheduled to begin September 9, 1974. Therefore, plaintiffs seek an expedited resolution of the issues

named in this lawsuit.

POINT II

THIS ACTION IS NOT MOOT

The defendants' adoption of a proposal to transfer students in the fourth and fifth grades to P.S. 122 in order to terminate split-session classes at P.S. 19 for the coming school year does not moot this action. Moreover, the proposed transfer further deprives the plaintiffs of an equal educational opportunity (See Point V infra).

It is well established that the voluntary cessation of prior discriminatory practices, viz. split-session classes, does not deprive this court of its power to hear and determine the legality of defendants' past practice and subject it to this court's closest scrutiny. Hobson v. Hansen, 269 F. Supp. 401, 496 (D.D.C. 1967) aff'd sub nom Smuck v. Hobson, 408 F.2d 175 (D.C. Cir. 1969). See e.g. United States v. W.T. Grant Co., 345 U.S. 629, 632 (1953); Gray v. Sanders, 372 U.S. 368, 376 (1963); Allee v. Medrano, ___U.S.___, 42 U.S.L.W. 4736, 4738 (1973). "Subsequent remedial actions allegedly taken to obviate a cause of action strongly mitigate against a finding of mootness, particularly where the plaintiffs present a prima facie showing of racial discrimination" Smith v. Young Men's Christian Association of Montgomery, 462 F.2d 634, 645 (5th Cir. 1972).

The district court in Hobson, supra, faced with a similar situation wherein the defendant school officials adopted a new building construction program to relieve overcrowding and cure inequities in the school buildings attended by Black students, declared:

> ... that a party is in the process of curing illegality, although the circumstance may affect the relief which equity grants, does not oust the Court from its jurisdiction to declare the constitutional wrong. Id. at 498.

However, the instant case goes beyond the facts in Hobson in that plaintiffs contend that defendants' planned transfer of students to P.S. 122 does not cure the prior illegality, but instead substitutes a new form of invidious discrimination for the past discriminatory practices of defendants and works a further deprivation on plaintiffs' rights to an equal educational opportunity. Cf. Lee v. Macon County Board of Education, 448 F.2d 746, 753 (5th Cir. 1971).

The Second Circuit was confronted with comparable facts in an action seeking to compel city officials to take the necessary steps to allow development of a low income housing project on a certain site in the city. Kennedy Park Homes Association v. City of Lackawanna, 436 F.2d 108 (1970) cert. denied, 401 U.S. 1010 (1971). In the trial court the

defendants moved for judgment on the pleadings on the grounds of mootness due to the fact that after the commencement of the litigation, the City rescinded the zoning ordinance and annexation on new subdivisions which had blocked construction on the proposed site. The Court of Appeals affirmed the denial of the motion on the grounds of judicial policy:

> Courts do not favor actions designed to stymie litigation, particularly where the public interest is so deeply involved and is of the highest priority. Id. at 112

Additionally, the Court held that the repeal of the invidious legislation did not moot the case, for defendants substituted another form of obstruction-denial of a sewage application - which was found to be part of a larger pattern and practice of racial discrimination.

Plaintiffs submit that the instant action parallels Kennedy Park Homes. Defendants' proposed transfer of children to P.S. 102 was instigated after commencement of this litigation and appears to have been an attempt to "stymie" plaintiffs' efforts to prevent the denial of equal educational opportunity through the judicial process. Moreover, the transfer because of its harmful effects forms a part of a larger pattern and practice of discrimination. Clearly, the public interest involved herein, assuring all children an equal educational opportunity, is of the highest priority.

"Compulsory school attendance laws

> and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms." Brown v. Board of Education, 347 U.S. 483, 493 (1954).

See also, San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 34-35, 93 S. Ct. 1278, 1295 (1973). The public interest in equal educational opportunity coupled with defendants' deeply rooted and long standing practices militate against a claim of mootness.

If the court were to dismiss this action as moot, defendants would be "free to return to ... [their] old ways". United States v. W.T. Grant, supra at 632 ; Gray v. Sanders, supra at 376. Far from establishing that the illegal wrong will not recur, defendants contend that the maintenance of split session classes is not illegal and was undertaken in good faith (See Answer, paragraph 44) and thus defendants, unless enjoined by this court, could continue or reestablish this

question. Cf. Burton v. New York State Department of Labor, 315 F. Supp. 1331, 1336 (S.D.N.Y. 1970).

Moreover, plaintiffs have requested in their prayer for relief that the court grant compensatory education for the deprivation of their right to an equal educational opportunity caused by defendants' invidious practice of maintaining split-session classes. Remedial education as a form of relief has been granted previously by this court where students lost instruction time due to a violation of their rights by school officials. Hoitt v. Board of Education, 48 F.R.D. 115, 117 (E.D.N.Y. 1969). Compensatory education is appropriate to remedy a denial of the right to an equal educational opportunity. Hobson v. Hansen, supra at 515. The relief sought to remedy the illegal action clearly survives the alleged discontinuance of split-session classes, and accordingly, the issues presented to this court remain "live" and the plaintiffs maintain a "legally cognizable interest in the outcome." Powell v. McCormack, 395 U.S. 486, 496 (1969).

POINT III

DEFENDANTS HAVE DISCRIMINATED AGAINST PLAINTIFFS ON THE BASIS OF RACE, COLOR AND NATIONAL ORIGIN IN VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT

The maintenance of split-session classes deprives plaintiffs of an equal educational opportunity. Students on split-session at P.S. 19 have only four hours of school and thus lose an hour a day of educational instruction or one day a week. Over the 180 day school year, students are deprived of 30 days of education; and over the first three years of attendance at P.S. 19, students lose a half year of education. All the other children in District 14 and in every other elementary school in the City[1] have a full five hours a day

1. Except eight other schools in which split-session classes were operated in 1973-1974.

of educational instruction.[2] Defendants have continued split-session classes at P.S. 19 for 13 years -- longer than any other elementary school in the City.

The impact of this loss of educational instruction falls most heavily on the Puerto Rican and Hispanic children in the New York City school system. P.S. 19 is over 95 percent Puerto Rican and Hispanic[3] making it the school with the highest concentration of Puerto Rican students in the City. Moreover, although Puerto Rican and Hispanic student comprise

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2. This is consistent with the policy of the State Education Department of New York State, "Objectives of Elementary Education, The 3R's and Much More," 1961:

> Length of School Day
>
> Reductions in the length of the school day represent a serious threat to the future of the children and their society. This threat is particularly significant in consideration of the increased educational demands which modern life imposes on those who live in a democratic society.
>
> It is incumbent on school officials to maintain a daily school schedule which permits adequate time for each child to have the best educational experience. Daily schedules for the elementary schools of New York State should be maintained for at least the minimum hours listed below:
>
> Kindergarten
>
> | | |
> |---|---|
> | All day | 5 Hours |
> | Half-day | 2 1/2 Hours |
> | Grades 1 thru 6 | 5 Hours |

3. In 1972-1973, the Elementary and Secondary School Civil Rights Survey conducted by the Board of Education indicated that of the 1,883 children 1,822 were Spanish Surnamed Americans.

only 26 percent of the city-wide student population, they are unproportionately represented in the other elementary schools on split-session during the 1973-1974 school years.

	Hispanic	Black	White
District 13 (Brooklyn)			
P.S. 39	22.21	71.35	55.77
District 15 (Brooklyn)			
P.S. 94	62.44	.66	36.23
P.S. 124	70.77	5.21	23.38
District 32 (Brooklyn)			
P.S. 75	69.39	28.22	2.30
P.S. 86	28.35	2.30	68.66 [4]
P.S. 106	69.21	26.23	4.35
P.S. 156	78.39	9.36	10.99
P.S. 151	62.66	33.55	3.39

Equal protection of law requires that where a state has undertaken to provide public education it is under a duty to provide it to all on equal terms in an even-handed fashion.

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4. For the purposes of showing discrimination, Puerto Ricans and Blacks can be combined. Keyes v. School District No. 1, Denver, Colorado, 413 U.S. 189, 197 (1973); Hart v. The Community School Board of Brooklyn, New York School District No. 21, ___ F. Supp. ___ (E.D.N.Y. 1974) slip opinion 72 Civ. 1041, January 28, 1974 at pp. 380.

Brown v. Board of Education, supra; Bullock v. Washington, 468 F.2d 1006, 1105 (D.C. Cir. 1972). The constitutional responsibility of school officials to provide for equality of treatment was clearly stated by Judge Fox in his discussion of a neighborhood school policy in the context of a desegregation suit, Oliver v. Kalamazoo Board of Education, 368 F. Supp. 143, 150, (W.D. Mich. 1973):

> Some aspects of this policy would be unobjectionable in any context. The attempt to provide a uniform curriculum and uniformly adequate facilities would be a part of any rational school program. Indeed, providing equal curricular offerings and equal facilities is part of the provision of equal educational opportunity to all students and thus not only desirable but rational, but constitutionally required. (Emphasis supplied.)

Id. at 149. Accord, Gibson v. Mahoney, supra, at 496-497.

Defendants have not treated Puerto Rican students

at P.S. 19 with even-handedness. New York City By-Laws §77(2)[5]

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5. Section 77(2) of the By-Laws of the Board of Education of the City of New York (August 21, 1968) provides:

> Class sessions shall be divided into full time and short time. Full time instruction shall be defined as follows:
>
> Full time in all grades shall consist of two sessions aggregating five hours daily, separated by an interval of at lease one hour for lunch, excepting that in health conservation classes held in hospitals, and health conservations classes for crippled children, two sessions aggregating four and one-half hours daily, separated by an interval of at least one hour for lunch, shall be considered full time.
>
> A full time class receiving all its instruction between 8:30 A.M. and 1:30 P.M. shall be classified as full time regular schedule. A full time class receiving part of its instruction either before 8:30 A.M. or after 1:30 P.M. shall be classified as full time special schedule.
>
> A class not receiving full-time instruction as hereinbefore defined shall be considered as receiving short-time instruction. Permission to place classes on full-time special schedule, or short time shall be subject to the approval of Superintendent of Schools which power he may delegate to the District Superintendent.

The By-Law is accompanied by an explanation from the Board of Education:

> Subdivision 2 of §77 of the By-Laws presently provides that four hours of daily instruction shall be considered full time for classes of the first year grades. For all other grades full time instruction is five hours. The above resolution would amend this so that full time instruction for the first grade shall be the same as it presently is for all other grades, a policy which is in accordance with the Board of Education's emphasis on strengthening instruction in early grades.

grants either the Chancellor of the New York City School District or the Superintendent of Community School District No. 14 authority to approve the provision of less than five hours of daily instruction to elementary school students. Although this by-law may appear neutral on its face, it has been applied by defendants in an invidious manner having a racially discriminatory impact. As the Supreme Court stated in Yick Wo v. Hopkins, 118 U.S. 356, 373-374 (1886):

> Though the law itself may be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar situations, material to their rights, the denial of equal justice is still within the prohibition of the constitution.

In a more recent decision Hunter v. Erikson, 393 U.S. 385 (1969), the Court, piercing a housing ordinance which appeared neutral but which had the effect of burdening minority groups, stated:

> Moreover, although the law on its face treats Negro and White, Jews and Gentile in an identical manner, the reality is that the law's impact falls on the minority. Id. at 391.

Accordingly, governmental action which may not be designed explicitly or implicitly to discriminate against a racial group but whose impact burdens a racial group to a disproportionate degree, then such action results in an invidious discrimination in violation of the Fourteenth

Amendment. See e.g. Norwalk Core v. Norwalk Redevelopment Agency, 395 F.2d 920 (2d Cir. 1968); Chance v. Board of Examiners, 458 F.2d 1167 (2d Cir. 1972); Hawkins v. Town of Shaw, Mississippi, 461 F.2d 1171 (5th Cir. 1972)(en banc). "[T]he Supreme Court has made it clear that it is the effect of State action that is to control a claim for relief under the equal protection clause of the Fourteenth Amendment." Pride v. Community School Board of Brooklyn, New York #18, 482 F.2d 257, 267 (2d Cir. 1973); Hart v. Community School Board of Brooklyn, supra at 34.

Even though the continuous maintenance of split-session classes may not have been designed by the defendants, but rather due to the burgeoning population growth of the school attendance zone and its concomitant overutilization of P.S. 19, the defendants may not escape the responsibility for placing these Puerto Rican children at a severe educational disadvantage. The defendants had an affirmative duty to eliminate this denial of equal educational opportunity. Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 15 (1971); Green v. County School Board of New Kent County, 391 U.S. 430, 437-438 (1968).

Defendants' practice of maintaining split-session classes at P.S. 19 has established a governmental classification based upon race which requires this court to apply the most exacting standard to defendants' proferred justifications.

As the Supreme Court stated in McLaughlin v. Florida, 379 U.S. 184 (1964):

> ...we deal here with a classification based upon the race of participants which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications "constitutionally suspect," Bolling v. Sharpe, 347 U.S. 497, 499 (1954); and subject to the "most rigid scrutiny," Korematsu v. United States, 323 U.S. 214, 216 (1944). Id. at 191-192

When the right to an equal educational opportunity of minority children is at stake, there must be "convincing justification" of inequalities they are forced to suffer:

> The school system's failure to keep up with burgeoning population in the [minority] neighborhoods explains several of the inequalities, thereby showing that the Board cannot be charged with having spawned their eventuation. But the element of deliberate discrimination is, as indicated above, not one of the requisites of an equal protection violation, and, given the high standards which pertain when racial minorities and the poor are denied equal educational opportunity,... justification must be in terms not of excusing reasons of this stripe but of positive social interests promoted or advanced. Bobson v. Hansen, supra at 498. (Emphasis supplied.)

The burden that defendants must bear cannot be overemphasized.

> This need for investigating justification is strengthened when the practice, though not explicitly singling out for special

> treatment any of the groups for which the Constitution has a special solicitude, operates in such a way that the such group is harshly and disproportionately disadvantaged.
>
> * * *
>
> The explanation for this additional scrutiny of practices which, although not directly discriminatory, nevertheless fall harshly on such groups relates to the judicial attitude toward legislative and administrative judgments. Judicial deference to these judgments is predicated in the confidence courts have that they are just resolutions of conflicting interests. This confidence is often misplaced when the vital interests of the poor and of racial minorities are involved. For these groups are not always assured of a full and fair hearing through the ordinary political processes, not so much because of the chance of partisan bias, but because of the abiding danger that the power structure--a term which need carry no disparaging abusive overtones--may incline to pay little head to even the deserving interests of a politically voiceless and invisible minority. These considerations impel a closer judicial surveillance and review of administrative judgments adversely affecting racial minorities, and the poor, than would otherwise be necessary. Hobson v. Hansen, supra at 507-08. (Emphasis added).

Plaintiffs' submit that defendants' discriminatory conduct cannot withstand close judicial scrutiny. Any proffered justification in the form of fiscal limitations will not excuse an invidious distinction between elementary school students which has resulted in less educational instruction for a disadvantaged minority. cf. Shapiro v.

Thompson, 394 U.S. 618, 633, (1969); Memorial Hospital v. Maricopa County, ___U.S.___, 94 S. Ct. 1076, 1085-1086 (1974). Defendants' action belie any justification based on available space and financial considerations. In 1970, after P.S. 19 was on split-session for 9 years, the defendants rented a building a block away from the school to be used as Community School District Offices. The building had been previously used as a Yeshiva and had to be converted to office space at a cost of $300,000. This rent and the cost of reconstruction was amortized over 10 years at $72,000 a year.

POINT IV

DEFENDANTS' DENIAL OF EQUAL EDUCATIONAL BENEFITS VIOLATES TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The continuous maintenance of split-session classes violates Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d. Title VI prohibits discrimination in any program receiving federal funds. Defendants have not denied that they are recipients of federal financial assistance.

The Supreme Court recently had occasion to set forth the force and effect of Title VI in school programs. Lau v. Nichols, ___ U.S. ___ (1974) ___ 39 L.Ed. 2d 1 (1974). The issue raised in Lau was whether or not Chinese students who had English language deficiencies must receive services to rectify those deficiencies. The Court examined the Department of Health, Education and Welfare regulations and guidelines which govern federally funded school programs and found that the absence of any remedial services violated those regulations. The crucial regulation was 42 C.F.R. 80.3 which provides in part:

> (b) Specific discriminatory actions prohibited. (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, color, or national origin:
> (ii) Provide any service, financial aid,

> or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
> (iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
> (iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;...

Defendants' actions in the instant case fall afoul of these regulations by providing different and inadequate educational services to plaintiffs. Plaintiffs receive one-half year less educational instruction than other students over the three years of split session. Defendants are obligated under Title VI to provide the same educational program to all students regardless of race, color or national origin.

POINT V

DEFENDANTS' PLAN TO TRANSFER FOURTH AND FIFTH GRADE CLASSES OUT OF P.S. 19 TO P.S. 132 CONTINUES RACIALLY DISCRIMINATORY TREATMENT OF PUERTO RICAN CHILDREN IN VIOLATION OF THE FOURTEENTH AMENDMENT AND WILL CAUSE IRREPARABLE INJURY

A. Introduction

Plaintiffs have demonstrated a prima facie case of racial discrimination. See Points III and IV supra. Now defendants have adopted a proposal to transfer all of the fifth grade and most of the fourth grade classes of these same children to P.S. 132, another school in a different neighborhood, beginning with the 1974-75 school year. This transfer would be the second transfer made by defendants within the past two years of P.S. 19 children. All the sixth grade classes were transferred to P.S. 1[4] during the 1972-73 school year which they attend for only one year before transferring again to a junior high school. The transfers are for an indefinite period of time.[5]

4. In 1973-1974, P.S. 17 was itself overcrowded and had a utilization rate of 117 percent. It also used 10 portable classrooms.

5. The transfers are "on an interim basis pending a) the completion of the Early Childhood Center...and b) the projected decrease in enrollment at P.S. 19." (See Answer, Exhibit A) As noted above, approximately 21 classes of children have been or will be transferred out of P.S. 19. The Early Childhood Center has not yet been constructed. It is scheduled completion date is 1975 but this is tentative. It has been assigned since 1968 to another purpose - providing a much-needed pre-kindergarten program at P.S. 19 (one of the few schools in the District without one). In any case the Early Childhood Center will have only 8 classrooms. The "declining enrollment" cited would have to equal thirteen classrooms or almost 400 children to accomodate 4th, 5th, and 6th grades.

Defendants pursue this course to allegedly remedy their previous discriminatory practice of maintenance of split-session classes. Plaintiffs charge that the transfer of three Puerto Rican children out of their neighborhood school to an inferior school, coupled with a subsequent transfer for a single year to another overcrowded school, coupled with the lack of any adequate remedial program is a new form of invidious discrimination, and unless enjoined by this Court will continue to cause these Puerto Rican children irreparable educational harm in violation of their right to equal educational opportunity.

B. The Transfers to P.S. 122 and P.S. 17 Result in a New Form of Discrimination Against the Puerto Rican Children of P.S. 165

Plaintiffs know of no other instance in which children, on the basis of an "educational policy", attend three separate schools in their first six years of education. This discriminatory practice is as onerous and invidious as split-sessions or classes and itself violates the equal protection clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964. See Points III and IV, supra.

Not only are the transfers in and of themselves violative of plaintiffs' rights, but as a "remedy" for past discrimination, they fail to meet constitutional standards. Where educational practices are at issue, the Court remains of Brown II[4] continues to place school district authorities under an affirmative duty to operate their districts in a

4. Brown v. Board of Education of Topeka, 349 U.S. 294 (1955)

'racially non-discriminatory' manner, requiring that past discriminatory practices be "eliminated root and branch" within the district. Green v. County School Board of New Kent County, supra at 438 (emphasis added). Affirmative action by local authorities to overcome past deprivation must eliminate all vestiges of past racially discriminatory treatment. Miller v. School District, 256 F. Supp. 370, 378 (D.S.C. 1966); Felder v. Harnett County Board of Education, 409 F.2d 1070, 1075 (4th Cir. 1969); Hobson v. Hansen, supra at 501.[9]

Equal educational opportunity requires that in acting to overcome past discriminatory practices, local school authorities must not set up "new forms of discrimination ...in their place." Lee v. Macon County School Board, supra at 753. Thus when authorities have attempted to take action, supposedly to remedy past discriminatory practices, courts have insisted that their action not unduly burden the minority victims of past discriminatory practices. Arvizu v. Waco Independent School District, ___F.2d___ (Cir. No. 73-3080) (5th Cir. May 17, 1974) Slip Op. p. 9; Cisneros v. Corpus Christi Independent School District, 467 F.2d 142, 153 (5th Cir. 1972)

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9. See Louisiana v. United States, 380 U.S. 145, 154 (1965): "[T]he court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discriminations in the future."

(en banc), cert. den. 413 U.S. 920 93 S. Ct. 3052 (1973); U.S. v. Texas Education Agency, 467 F.2d 848, 871-72 (5th Cir. 1972) (en banc); Lee v. Macon County Board of Education, supra at 753. United States v. Greenwood Municipal Separate School District, 460 F.2d 1205, 1207 (5th Cir. 1972); Spangler v. Pasadena City Board of Education, 311 F. Supp. 501, 524 (C.D. Cal. 1970); Brice v. Landis, 314 F. Supp. 974, 978 (N.D. Cal. 1969); cf. Quarles v. Oxford Municipal Separate School District, 487 F.2d 824, 827 (5th Cir. 1973).

The denial to minority children of material equality in any aspect of their education, no less than a denial of integrated schooling, is a racially discriminatory practice violative of the constitutional guarantee of equal protection. Hobson v. Hansen, supra at 486; Oliver v. Kalamazoo Board of Education, supra at 164. In remedying these unconstitutional practices, the plaintiffs can clearly have no less right to be free of the imposition of further burdens than if they were the victims solely of the discriminatory practices of segregation.

The forbidden discriminatory conduct occurs not only when minority victims are disproportionately (or completely) burdened as compared with dominant group children; it also occurs when, as here, the burden is placed on minority children who have indisputably been the very "victims... for so long"

of past discriminatory practices. U.S. v. Greenwood Municipal Separate School District, supra at 1307.

It is clear that defendants plan to transfer Puerto Rican children from P.S. 99 to P.S. 122 will have the effect of further burdening the victims of past discrimination. These children will be uprooted, over the protests of their parents, from their neighborhood school and transferred for two years to an obsolete, inferior, unsafe school [10] in another neighborhood, then transferred again to an overcrowded school in yet another neighborhood for a single year, before transferring again to a junior high school.

The transferred children will either have to compete with classes at two separate physical sites for the attention of the single administrative unit at P.S. 99 or will be tacked on to the administration of other schools with which they have had no previous connection. In either case, the possibilities would be severely reduced, if not eliminated, for the cohesiveness and interaction among school personnel necessary for the development of administrative and pedagogical leadership which is crucial to the education of disadvantaged

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[10] See affidavit of Julian Nemkl.

children.[11]

The forced transience that defendants' plan requires is universally recognized as harmful to children's education. In Pride v. Community School Board of Brooklyn, New York School District #18, 488 F.2d 122, 128 (2nd Cir. 1973) the Court noted:

> ...that Tilden House children who have attended District 18 schools will continue there under the March 18 plan, with only children newly enrolled to be affected. Thus we face here no dislocation from students having to switch schools.

The four distinguished educators who have submitted affidavits to this Court all attest to the severe educational harm that would result from defendants' forced transfer plan. They cite, among other things, the deleterious effect on the children's stability, security and ability to advance in the educational process; the negative results on this physical disorganization on the parents' ability to positively and effectively intervene in their children's education development; the disorganizing impact on the pedagogical and administrative

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[11]. The failure of the New York City School system generally to educate Puerto Rican children is a well-documented fact. See, Public Education for Puerto Rican Children in New York City, United States Commission on Civil Rights, Washington, D.C. (1972); see also Mantalvo, Brosalis, "Home School Conflict and The Puerto Rican Child", Social Casework pp. 100-110 (February 1974).

effectiveness of school personnel.

But the court need not rely on these opinions alone; if there were any lingering doubt that defendants' policy is harmful to plaintiffs, defendants themselves have dispelled it. Defendant Board of Education has long recognized that transience is harmful to the educational achievement of elementary school children. In a critical summary of reading test results for 1967-68 of the city's schoolchildren, defendants concluded that "Data show that when a child moves from school to school several times during his elementary school years, his education suffers".[12] This conclusion was based on Board of Education studies:

> Research studies conducted by the Office of Educational Research show that the more frequently a pupil moves from one school district to another, the lower his comparative reading achievement will be. Three studies were conducted by (a) Kasindorf, (b) Frankel and Forlano, and (c) Justman. Based on standardized reading test data the performance of transient and non-transient pupils in disadvantaged areas in New York City were compared. The Justman study, based on 934 sixth grade pupils, found that the pupils who attended four or more schools during their elementary school years functioned 12.1 school months below grade level in the third grade, and by the time they reached the sixth grade the performance of these same children was 16.6 school months below grade level in reading achievement. On the other hand, those pupils of stable residency

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12. Summary of City-Wide Reading Test Results For 1967-68, Bureau of Educational Research, New York City Board of Education, November 1968, p. 8.

> who attended the same elementary school during the six-year period were 2.4 school months below grade level at the third grade but they achieved 1.7 school months above grade lev l when they were in the sixth grade. [13]

The defendants' forced transfer plan, which will surely cause the plaintiffs' education to suffer added to the severe deprivation caused by the maintenance of split-session classes will have a devastatingly negative impact on the educational development of these Puerto Rican children. The imposition of this burden is unconstitutional.

In addition to pursuing an educationally harmful policy, defendants propose to transfer these minority children to an outmoded, obsolete school facility which has serious hazardous conditions. Conditions existing at P.S. 122 are in violation of the New York City Building Code and are a potential fire hazard: stairways are not properly separated by fire resistant materials; doors are not properly fireproofed; exit signs are not illuminated properly; and egress from the basement is inadequate. See affidavit of Julian Neski. Thus, use of P.S. 122 is dangerous if not illegal.

Moreover, P.S. 122 has none of the necessities, not to speak of the amenities, of modern educational instruction. It has no actual auditorium, gymnasium of lunchroom. The

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13. Ibid. p. 6

classrooms, proposedly assigned to P.S. 19 children, have been in disuse for four years. Even were P.S. 122 not a fire hazard, plaintiffs contend that the condition of the building, as outlined by the affidavit of Mr. Neski, and the lack of facilities enumerated above still deprive plaintiffs of an equal educational opportunity and would cause them irreparable injury. If the Court had any doubts about the obsolescence of this facility, the Director of Programming in the Department of Educational Planning and Research concluded that it was obsolete in 1966. See Exhibit attached to affidavit of Kenneth Kimerling.

Cetainly, the transfer of the fourth and fifth grades from P.S. 19, a school in good condition with adequate facilities, to a school which is in poor condition with no facilities is unjustifiably burdening the victims of past discrimination and a further deprivation of their right to an equal educational opportunity. U.S. v. Greenwood Municipal Separate School District, supra. It is clear that the minimum the equal protection clause requires of separate schools is that "their objectively measureable aspects ... be run on the basis of real equality, at least until any inequalities are adequately justified." Hobson, supra at 496; Oliver v. Board of Education, supra.[14]

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14. A claim by defendants that white dominant schools suffer the same inadequacies will not justify a transfer of these disadvantaged minority children to an obsolete facility:

> ...the Law is too deeply committed to the real, not merely theoretical (and present, not deferred) equality of the Negroes' educational experience to compromise its diligence for any of these reasons when cases raise the rights of the Negroes' poor. Hobson v. Hansen, supra, at 497

The inferiority and obsolesence of P.S. 122 is not a recent development. As early as February, 1967, community parents protested and boycotted the conditions at P.S. 122, and their protests were heard by Board of Education officials and a new replacement school, P.S. 180, was funded and granted a priority in 1969. See affidavit of Kenneth Kimerling. In fact, since the completion of I.S. 71 in 1971, the elementary students residing in the attendance zone of P.S. 122 have attended I.S. 71. Community opposition to the use of P.S. 122 as an educational facility has not subsided over time and it is still considered an obsolete, delapidated and unsafe school. Clearly, the transfer of children of a disadvantaged minority background to a school recognized by both the community and school officials to be inferior could appear to these children and their parents to be racial stigmatization of the worst and most disheartening kind, condemned by Brown I as violative of the constitutional guarantee of equal protection. This stigma is a further irreparable burden which defendants' unjustifiably seek to impose on the plaintiffs.

Finally, the defendants have established no program of compensatory education to remedy the past deprivation caused by split sessions. As Mr. Chief Justice Burger recently stated in Milliken v. Bradley, ___U.S. ___ (1974) Slip opinion 26-27:

> But the remedy [must be] necessarily designed, as all remedies are, to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct.

An appropriate remedy must undo the results of past discrimination as well as prevent future inequality of treatment. Defendants clearly have the duty in any attempt to terminate split-session classes to establish promptly a remedial program to compensate for lost educational time and instruction.

> The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now. Green v. County School Board, supra at 439.

The proposed remedy is no remedy at all. The transfer to P.S. 122 will unconstitutionally burden the plaintiffs by failing to provide a special instructional program to remedy the severe harm caused by the continual maintenance of split-session classes; by denying plaintiffs the needed security and continuity of educational programming vital to their educational development; and by placing them in a hazardous and obsolete facility. Unless this Court enjoins the transfer to P.S. 122, these children will suffer further irreparable damage to their educational development.

C. Defendants' Plan Does Not Meet Its Heavy Burden of Justification

For the reasons stated above, this plan is perhaps the worst alternative that defendants could have chosen to end their past discrimination. The standard for such a plan is much higher. As the Supreme Court in Green v. County School Board

of New Kent County, supra at 439 stated:

> The obligation of the district courts, as it always has been, is to assess the effectiveness of a proposed plan in achieving desegregation.
>
> . . .
>
> The matter must be assessed in light of the circumstances present and the options available in each instance. It is incumbent upon the school board to establish that its proposed plan promises meaningful and immediate progress... It is incumbent upon the district court to weigh that claim in light of the facts at hand and in light of any alternatives which may be shown as feasible and more promising in their effectiveness.
>
> . . .
>
> Of course, the availability to the board of other more promising courses of action may indicate a lack of good faith; and at the least it places a heavy burden upon the board to explain its preference for an apparently less effective method. (Emphasis added)

Because of the onerous impact of such a transfer, defendants have a heavy burden of showing that there is no better and more effective way of remedying their past discrimination.

Recently, in Hart v. Community School Board, ____ F. Supp. ____ (E.D.N.Y. July 26, 1974), Slip opinion this Court stated:

> With the proviso that any program employed must promise "realistically to work"... local authorities retain wide discretion to choose among acceptable programs of desegregation. In "this field the way must always be left open for experimentation." (Citations omitted).

The Supreme Court had only the day before in Milliken v. Bradley, ___ U.S. ___ (1974) Slip opinion at p. 22, laid the basis for the Hart reasoning:

> [L]ocal control over the educational process affords citizens an opportunity to participate in decision-making, permits the structuring of school programs to fit local needs, and encourages "experimentation, innovation and a healthy competition for educational excellence". (Citations omitted) (Emphasis supplied).

The reasoning of Bradley and Hart are supportive of plaintiffs' position. Deference to local school board's decisions is appropriate to encourage experimentation and innovation. But there has been no attempt by defendants to adopt an innovative remedy to rectify the past deprivation of plaintiffs. Defendants propose to transfer the affected students to an obsolete school building, to classrooms that have been vacant for the past four years, without any remedial program. Instead of a program which seeks educational excellence, this plan will cause irreparable harm in the opinion of professional educators.

Clearly, the Court is not presented with a plan which promises realistically to work for the benefit of these minority students who have been deprived of an equal educational opportunity. Rather it has before it, official action which subjects plaintiffs to disparate treatment and irreparable harm. Certainly, this proposed plan is not immune from judicial scrutiny requiring that it be justified as necessary and the remedy sought not capable of being achieved by a more preferable, effective and less offensive alternative.

POINT VI

IF PRELIMINARY RELIEF IS NOT GRANTED, PLAINTIFFS WILL SUFFER GRAVE HARDSHIP

The Court in Pride I[15], indicated that:

> [The balancing of hardships]...is not as simple as assessing which party stands to suffer more from the grant or denial of the injunction. What is involved is an evaluation of where the equities lie, considering in addition to the hardships such factors as the uncertainty of the questions raised and the probable outcome of the dispute on the merits.

Given the serious nature of the questions raised and the high likelihood of success, the equities require that relief not be postponed for a fuller hearing on the merits. If plaintiffs at some later date finally succeed in this matter, the status quo will have changed so completely as to deny an effective remedy. The balance of hardships in this situation is the exact reverse of Pride I:

> We believe that appellees have fairly summarized the situation: "The children have not been wrenched from a school earlier attended by them. A temporary injunction would not restore them to 'status quo'. It is a fair inference that their education will not be advanced by a mid-semester transfer to a different class conducted by a different teacher in a different school."
>
> Id. at 270

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15. Pride v. Community School Board of Brooklyn, New York School District #18, supra at 270.

here, once the transfer has been made, a decision that the transfer was unlawful will present the Court with the Hobson's choice of either wrenching the children out of P.S. 122 in mid-semester or allowing them to remain in that facility in further deprivation of their rights to an equal educational opportunity.

Furthermore, defendants have taken no concrete steps to facilitate this transfer. At the deposition of August Gold, Director of Physical Planning, on July 25, 1974, he indicated that he knew no current plans to renovate P.S. 122. Thus, a preliminary injunction will not injure defendants in terms of any financial commitments to P.S. 122.

The equities lie heavily in favor of these Puerto Rican children.

CONCLUSION

The school year is scheduled to begin on September 9, 1974. For all the above stated reasons, preliminary relief is necessary and appropriate. Unless the transfer to P.S. 120 is enjoined and the defendants ordered to take affirmative steps to end their past discrimination, plaintiffs will suffer irreparable injury.

Dated: Brooklyn, New York
August 5, 1974

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Attorneys For Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL #19, et al., Plaintiffs, -against- COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL BOARD #14 OF THE CITY OF NEW YORK, et al., Defendants.	74 CIV. 783 (JBW) NOTICE OF MOTION FOR PRELIMINARY INJUNCTION

Upon the complaint herein, and upon the attached affidavits of Kenneth Kimerling, counsel for plaintiffs; Maria Garcia, plaintiff herein; Dr. Ruth Adams, Professor of Education at City College; Carmen Dinos, Assistant Professor of Education at Brooklyn College; Dr. Michael Stewart McColgan, bilingual education administrator; Dr. Doxey A. Wilkerson, Professor Emeritus of Yeshiva University and Vice President of Mediax Associates, Inc.; and Julian Neski, registered and licensed architect, plaintiffs will move this Court in Room 10 United States Courthouse, Cadman Plaza, Brooklyn, New York on August 15, 1974 at 10:00 A.M. for an order pursuant to Rule 65 of the Federal Rules of Civil Procedure:

1. Preliminarily enjoining defendants, their agents, employees and those in active concert with them from denying plaintiffs and their class an equal educational opportunity by the continued maintenance of split-session classes;

2. Preliminarily enjoining defendants, their agents, employees and those in active concert with them from transferring students in the fourth and fifth grades of P.S. 19 to P.S. 122.

3. Preliminarily enjoining and ordering defendants, their agents, employees and those in active concert with them to prepare a plan that effectively ends split-sessions at P.S. 19 and provides plaintiffs and their class with the necessary remedial and compensatory programs to overcome their past educational deprivations and does not disrupt plaintiffs' education with further transfers. Such plan shall be prepared in cooperation and consultation with plaintiffs and be submitted to the Court within 7 days of the entering of this order;

4. Granting such other and further relief as this Court deems just and proper.

Dated: Brooklyn, New York
August 5, 1974

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS COMMITTEE OF PUBLIC SCHOOL #19, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT #14 OF THE CITY OF NEW YORK, et al.,

Defendants.

74 CIV. 783 (JBW)

AFFIDAVIT OF KENNETH KIMBALLING

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

KENNETH KIMBALLING, being duly sworn deposes and says that:

1. I am an attorney for plaintiffs herein, and I make this affidavit in support of the motion for preliminary injunction.

2. The complaint in this matter was filed on May 22, 1974. At that time children in the first, second and third grades at P.S. 19 attended split-session classes. P.S. 19 has had split-session classes for 13 years — longer than any other school in the City. The children in these classes have lost one hour a day of educational instruction and each week have effectively lost a days education.

3. While P.S. 19 is in a district in which the majority of the children are Puerto Rican or Hispanic, it, in fact, has the highest concentration of Puerto Rican and Hispanic students in the city. Moreover, a survey done by counsel for plaintiffs, indicates that seven of the nine schools on split-session in

1973-74 were predominantly Puerto Rican and one of the others was predominantly Black and Puerto Rican.

44. The efforts of the defendants to relieve this situation have ranged from harmful to de minimus. Portable classrooms were built in 1964 to allow the fourth grade to attend full-time. The fourth grade had been on split-session for the previous year. In 1972, these inadequate structures were closed, and in the middle of the school year the sixth grade was moved to P.S. 17. The sixth grade has remained at that school and attends it for one year before transferring to another school for seventh grade. The harmful nature of this type of transfer, for a one year period, has been set forth in the affidavits of Dr. Ruth Adams, Professor Carmen Dinos, Dr. Michael Stewart McColgan and Dr. Dewey R. Wilkerson.

44A. Adjacent to the school, an Early Childhood Center for the Education of pre-kindergarten and kindergarten children is being built. It is scheduled to be completed for the 1975-76 school year. This facility will help relieve the overcrowding by absorbing the kindergarten which would free four or five classrooms in P.S. 105. However the school presently needs 13 additional classrooms to end split-sessions and a total of 21 additional classrooms if the sixth grade is to be rejoined with the school.

45. While doing nothing concrete for P.S. 105, the defendants in 1970, leased a building a block and a half from P.S. 19 to be used as District offices. The building had been previously used as a school, a Yeshiva, and could have easily been converted for use by the children at P.S. 19. Nevertheless, the building

was remodeled for office space at the cost of about $300,000 amortized over ten years with the rent at $72,000 per year. In 1970, when these offices were leased, there were two schools almost totally empty, P.S. 122 and J.H.S. 126 and 1 other schools with a 60 to 70 percent utilization rates.

6. In response to our lawsuit, the six of the members of the Community School Board voted to transfer the students in the fourth and fifth grades to P.S. 122. This school has been emptied of most of its students since 1970 following a community boycott regarding the use of this obsolete facility. (Attached as Exhibit I, is a New York Times' articles of February 15, 1967 and February 16, 1967 reporting on the boycott.) The defendants have themselves recognized the "obsolescence of the existing structure and the need to replace it with a building equipped to accomodate a modern program of primary school education" (letter of December 20, 1966 from Dr. Morris Nelson Sachs, Programming Director of the Board of Education to Mrs. Luisa C. Rivera, President of the Parents Association of Public School 122 attached as Exhibit II. Mrs. Rivera's letter to Dr. Nelson is attached as Exhibit III). In the School Building Program of 1970-71 published by the Board of Education in September 1969, P.S. 122 was referred to as "obsolete", and its replacement P.S. 380 was given the number 10 priority out of 330 projects proposed.

7. Julian Weski, a licensed and registered architect and a Fellow of the American Institute of Architects, visited P.S. 122 on July 29, 1974. He found many of the conditions reported by Mrs. Rivera in 1966 (in Exhibit III) were still existing. Moreover, he found numerous dangerous conditions in violation of the New York City Building Code that would threaten

the lives of the children in the school in the event of a fire. He estimated that the repairs and modernization of the building for use as an elementary school would cost at least one million dollars.

8. The planned transfer to P.S. 122 would not only threaten the physical safety of the plaintiff children, but would completely disrupt their education. The affidavits of Dr. Adams, Professor Dinos, Dr. McColgan and Dr. Wilkerson amply set forth the psychological and educational harm to plaintiffs which would result from the transfer to P.S. 122. All these educators believe that a transfer of the fourth and fifth grades to P.S. 122 to be followed by a transfer to P.S. 17 for the sixth grade, would only compound the lost educational time caused by split-session and irreparably injure the children.

9. As the affidavit of plaintiff Maria Garcia attests, the transfer will also have a stigmatizing effect as a result of the continuous onerous treatment that the children have received.

10. Defendants may in good faith be seeking to end the split-session classes; however, the transfer to P.S. 122 would not end the injury to these children. Unless there is a plan which provides for continuity of education in a familiar and convenient setting combined with affirmative steps for remedial and compensatory education, the 1974-75 school year will be another lost year added to the many lost years that plaintiffs have already suffered. Wherefore, preliminary relief is necessary

to protect plaintiffs from irreparable injury.

KENNETH KIMERLING

Sworn to before me this

5th day of August 1974

PATRICIA JERGATA
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4610545
Qual. Filed in New York County
Commission Expires March 30, 1976

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955 OF 959 ABSENT IN SCHOOL BOYCOTT

Brooklyn Protest Wins City Promise to End Overcrowding

By MERRILL FOLSOM

Parents in the Williamsburg section of Brooklyn kept 955 of 959 children out of Public School 122 yesterday in a boycott protesting poor conditions at the school.

The boycott and picketing by the parents were dramatically successful. But Dr. Nathan Brown, executive deputy superintendent of schools, scurried over to the 57-year-old school building at 75 Harrison Avenue from the Board of Education building, 110 Livingston Street. He offered the parents a program that temporarily at least ended a two-year dispute between the neighborhood and the Board of Education.

"We got it in writing, and Dr. Brown wrote like a new type of boy is born—a shiny pen," said Mrs. Celia Vaz, chairman of the local school board. "We'll have to wait and see. We hope the battling is over now."

Dr. Brown's plan calls for construction of a new school and in the meantime to transfer some of the students out of P.S. 122 and renovate the building for use by the remaining pupils.

The picketing and boycott were led by Mrs. Luisa Rivera, president of the school's Parent-Teacher Association. Mrs. Rivera and Mrs. Vaz agreed to accept Dr. Brown's compromise plan and called off the boycott, which was scheduled to continue today.

P.S. 122 is a four-story brownstone structure. A small basement room is used as an auditorium and gymnasium. Four large pillars obstruct the room, and exposed water pipes hang from its ceiling.

Kindergarten and kindergarten children have to climb two flights of narrow stairs to go to a washroom, and in one kindergarten class part of the ceiling has a glass "window."

The window broke during rainstorm, and the children "get wet on the floor," said Miss Rosa Portasy, a teacher.

The auditorium, which is supposed to hold nearly 500 children, is a small converted classroom in which only 50 children at a time can be handled. Gymnasium pupils scramble in it during lunch periods, but there is no place else in the building to put the urinal.

Children in the second grade sit in front of 28-inch-high desks, which were designed for junior high school students.

Three New Buildings Due

The Board of Education originally planned to replace the school with a new structure, but the project was given a low priority.

Instead the board built an intermediate school, I.S. 218, several blocks away from P.S. 122. The new school is scheduled to open either next September or in February 1968. Another new school, I.S. 71, is planned for construction in 1969 adjacent to P.S. 122.

The parents of P.S. 122 want one of the new buildings used as an elementary school rather than an intermediate school. Under the agreement worked out yesterday by Dr. Brown, the board will give a third new school — an elementary school for use by the neighborhood — "high priority" and include it in the 1967-68 capital budget.

Meanwhile the board will transfer P.S. 122's third-graders and fourth-graders to the nearby I.S. 218 and will renovate the old structure for children in pre-kindergarten classes through the second grade.

In another development yesterday, parents concerned with the physical condition of Grand Park High School, at Elton and Grand Streets in Brooklyn's Lower East Side, met with Borough President Percy Sutton. They plead for a new school because of the school's present overcrowded conditions.

Mr. Sutton promised to fight for the items in the 1967-68 capital budget. The school now operates on three shifts, with nearly 4,000 pupils in a building constructed to accommodate 2,200. On Feb. 1 the board moved the situation a bit by opening an abandoned school building on Monroe Street as an annex.

2D BOYCOTT CALLED BY P.S. 122 PARENTS

A school boycott in the Williamsburg section of Brooklyn was called again by parents last night after they rejected a Board of Education compromise plan because "we do not trust the board."

The parents, who had kept 955 of 959 children out of Public School 122 on Tuesday, are protesting the poor condition of the building, which is at 75 Harrison Avenue.

Yesterday, promises by the board to push construction of a new school and to the immediate repair the present school building appeared to have been accepted by the parents. Two hundred fifteen children returned to classes.

But at a meeting last night, 200 members of the parent-Teacher Association unanimously rejected the proposals. Dr. Nathan Brown, executive deputy superintendent of schools, had offered the plan in writing to Mrs. Luisa Rivera, president of the P.T.A.

The parents said they would not settle for promises and demanded "now." Their children would be kept out of school today. Mrs. Rivera said a delegation would go to City Hall this afternoon to discuss the school's condition.

EXHIBIT I

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December 20, 1966

SUBJECT: Public School 122,
Brooklyn

Mrs. Luisa C. Rivera
Parents' Association of
Public School 122
63 Harrison Avenue
Brooklyn, New York 11211

Dear Mrs. Rivera:

I am writing to you in reply to your letter of December 16, regarding the status of Public School 122, Brooklyn.

We are in complete agreement with the Parents' Association of Public School 122 on the dilapidated condition of the existing structure and the need to replace it with a building designed to accommodate a modern program of primary school education. In accord with this decision, we recommended, many years ago, that Public School 122, Brooklyn, be replaced by a new school, which, at that time, we referred to as Public School 71, Brooklyn. However, less than two years ago, the Board of Education adopted a proposal, initiated by the State Commissioner of Education assisted by a special Commission, to shift the organization of the schools from the present 6-3-3 plan to a newer educational ladder which includes 4-year comprehensive high schools, 4-year intermediate schools, and primary schools for classes extending from Pre-Kindergarten through Grade 4. The need to shift the two upper grades currently housed in elementary schools into new middle schools created a pressing problem because of lack of space for intermediate grades. This made it extremely urgent to assign the highest priorities to (1) new high schools in order to make possible the removal of Grade 9 from existing junior high schools, and (2) intermediate schools in order to make possible the removal of Grades 5 and 6 from existing elementary schools into the new middle schools.

As one consequence of the shift in the organization of the schools, it became necessary to alter the master plan for school construction that had been developed during the last few years. Steps were taken to advance the construction of needed high schools and intermediate schools. Over so many

EXHIBIT II

Hon. Ezra T. Crowley

December 30, 196[illegible]

SUBJECT: Public School 122,
Brooklyn

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elementary school projects, based on the older 6-3-3 plan of organization, were found to be unnecessary in some instances or not as urgently required in other instances.

In an effort to provide middle school facilities in the Williamsburg community at the earliest possible date, the plan to replace Public School 122, Brooklyn, was modified. Public School 71 was converted into an intermediate school and a new replacement project was introduced in the building program which the Board of Education adopted on September 28, 1960; namely, New Public School 320.

In other words, the building program of the Board of Education includes two projects in place of the former one: I.S. 71, designed to provide facilities for children in Grades 5-8, and P-320, designed to replace P-122. It should also be borne in mind that Grades 5 and 6, formerly housed in P-122, will ultimately be accommodated in I.S. 71. The revision of the master plan for your community did not deprive your neighborhood of a school. Actually, it resulted in provisions for two schools, an intermediate school and a primary school, in place of the elementary school which was originally contemplated.

Very truly yours,

Norris Nelson Sachs
Programming Section
Director

NNS:sc

[illegible]
of
[illegible] 122
[illegible] Harrison Avenue
Brooklyn N.Y. 11211

December 1a, 1966

Dr. Hilton Sachs
School Planning and Research
Board of Education
110 Livingston Street
Brooklyn N.Y.

Dear Dr. Sachs:

The Parents' Association of Public School 122, located on Harrison Avenue and Rutledge Street in Brooklyn, is deeply disturbed by the recent announcement that an intermediate school, I.S. 71, is being proposed in the vicinity of the present P.S. 122. The proposed I.S. 71 was originally designated as an elementary school, Public School 71, and we were under the impression that it would be the replacement for P.S. 122.

We would like to enlist your support in our fight. Since 1960 a new school has been requested each year and the item P.S. 71 has been recommended by the Board of Education in every school budget since 1961. We are shocked now to think that the new school proposed will be an intermediate school. The proposal is all the more incredible since I.S. 318 is presently being constructed on Lorimer Street and Throop Avenue, just three blocks from the site of the proposed I.S. 71.

P.S. 122 is an overaged, obsolete, unsafe building in the Williamsburg area. We need a new school for these reasons:

1. No auditorium.

2. No gymnasium.

3. A wholly inadequate lunchroom with 9 tables, and a capacity of 90, serving 300 children daily. Children in this area would benefit from food cooked on the premises.

4. The building is dangerous because there are insufficient staircases serving the third and fourth floors. Two major exit staircases end at the second floor level and do not service children on the third and fourth floors.

EXHIBIT III

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5. [illegible] building on [illegible] acres on the [illegible] should each have from five cross [illegible] on the [illegible] thoroughfare, Hartford Road. During [illegible] children must cross this street in order to be removed from the school area quickly.

6. A small, inadequate yard and no playground facilities in the area.

7. No elementary lavatories or sinks.

8. Totally inadequate office space - six persons using the same office and virtually no main office.

9. No audio-visual or science rooms and no facilities for demonstrating such materials to large groups.

10. Inadequate bathroom facilities for children and teachers.

11. [illegible] Public Address system.

12. Violations due to many rotten window frames and washes leading to frequent leaks.

13. Outside walls are porous in a number of areas.

14. Many rooms have no space for pupils' wardrobes, children hanging their clothing on exposed hooks.

This school plant imposes further disadvantage to the youngsters of a disadvantaged community. In our affluent society no child should be required to live and work under these conditions.

We want the new school I.S. 71 redesignated as Public School 71 (Elementary) as it originally was. Our parents have just drawn up a petition and are anxious to meet with you about this intolerable situation.

Thank you for your help.

Sincerely yours,

Lillian S. Rivera

Lillian S. Rivera
President, Parents' Assn.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF
PUBLIC SCHOOL # 19, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF
COMMUNITY SCHOOL DISTRICT # 14
OF THE CITY OF NEW YORK, et al.,

Defendants.

74 Civ. 780

(E.B.M.)

AFFIDAVIT OF RUTH ADAMS

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

RUTH ADAMS, being duly sworn, deposes and says, that:

1. I have been involved in the educational system in the New York City schools for my entire professional life. I began as an elementary school teacher in 1940, and I have taught on all levels of the educational continuum, from first through ninth grade and undergraduate and graduate courses on the college level. I have also worked on projects involving education in the high schools such as the College Discovery Program.

2. My educational training consists of a B.A. from Radcliffe College, an M.S. in Elementary Education with a Specialization in Reading from City College, and a Ph.D in Educational Psychology from New York University.

3. I have been Chairman of the Department of Elementary Education at City College since 1972. The Department includes undergraduate and graduate programs in such areas as Early Childhood Education, Elementary Education, Bi-Lingual Education

and special education and other programs such as Open Education and Day Care. As Chairman I am familiar with educational theory in all these areas. I presently teach two courses in reading and learning disabilities in elementary school education. Attached is a copy of my curriculum vitae.

4. I have had direct experience with programs of the Board of Education. I was supervisor of Reading Improvement Teachers for the Office of Elementary Schools in [illegible]. Serving as a consultant I have evaluated education programs in almost every school district of the City of New York ranging from Title III programs in Manhattan and Queens, Title I in the Bronx and Title VII (Bi-Lingual) in Brooklyn. As part of my duties as Chairman at City College I am Coordinator of the Affiliated Schools Program and in this capacity have visited and still visit many cooperating schools.

5. I am familiar with District 24 and P.S. 58, having visited every elementary school in District 24 as a consultant and evaluator of funded programs from 1971-1975. I evaluated the initial Reading and Language Program and Diagnostic Reading Center programs in the District.

6. I have spoken at length with counsel for the plaintiffs and am familiar with the facts of the case. Based on the application of sound educational principles of learning, it is my opinion that the present zoning transfer plan of the Local Board would be beyond doubt educationally harmful to these children.

7. I became familiar with the educational situation of the children in the District during my visits for the initial

evaluation. One fact impressed me most: the population of the elementary schools had changed from one predominantly white, middle and lower class to a population that was now, in every school but one, predominantly Puerto Rican and Black from more deprived socio-economic backgrounds. In addition, many Puerto Rican children come to the school with a lack of knowledge of English. The special problems of this new and different school population require many changes in educational approach, and it was my general impression that as a whole the administrators at every level in this district had not yet sufficiently appreciated the need for these changes. In only one or two schools, and P.S. 19 was not one of them, did I see any attempt on the part of the principal or administration to include the children's cultural heritage and background in curricular planning.

8. It was my opinion then and now that the educational problems of the Puerto Rican child who comes to school are special. He comes trying to express himself in two languages. To allow him to learn effectively how to do this requires a continuous, sequential educational plan, including specially designed programs, that concern themselves not only with subject areas but affective aspects of learning. Generally, transferring children from school to school breaks this sequential pattern and results in overlaps and gaps in areas of learning.

9. Transferring Puerto Rican children is harmful for a special educational reason. Most young children's learning is dependent upon the security they feel about coming to "their" school, "their" teacher and class, and this kind of security

takes time to develop. Children learning a second language have at least as much if not a greater need for this kind of security. Children learning a language as these children are must learn a second language through social interaction. Thus the quality of the social interaction becomes very important in this process of developing expressive and receptive language ability. Further, the development of this expressive and receptive ability is a very important factor in determining the child's ability to learn how to read, which is the basic foundation of education. A discussion of this influence of expressive ability on the reading-learning process is found in the report of the evaluation which was made of the District 14 programs, published in Evaluation of District Decentralized Projects, Final Report July 1973, Institute for Educational Development, July 1973, p. 9.

10. When a child learning a second language has to make new adjustments, the expressive language ability suffers because of the disruption in the so ial interaction process. For these Puerto Rican children in P.S. 19 to have to make the two transfers in such a short period of time will in my opinion substantially hinder their ability in the area of expressive language and concomitantly hinder their development in learning to read. The previous retardation of their ability in expressive language because of the reduced instructional time during the first, second and third grades will only be compounded by this transfer plan.

11. In my opinion the solution to the problem is not to slice off a portion of these children and send them to a strange setting for a short time before sending them to another

strange setting, again for a short time, before they have to transfer to Intermediate School. Rather, if they could attend school in a nearby setting and be given an intensive, sequential program aimed at developing their language ability, the educational harm that has already been done could be lessened. This way they could still be a part of "their" school — P.S. 19 — and come back for many activities with friends and retain the continuity and sense of belonging to a specific school family that is vital to their educational development.

12. In my opinion, the double transfers planned by the Board will seriously injure the children's educational development.

RUTH ADAMS

Sworn to before me this

day of August, 1974.

NOTARY PUBLIC

PATRICIA VERDATA
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4528845
Qualified in New York County
Commission Expires March 30, 1975

CURRICULUM VITAE

NAME: RUTH M. ADAMS

COLLEGE: THE CITY COLLEGE-CUNY

HIGHER EDUCATION:

A. DEGREES:

INSTITUTION:	DATES ATTENDED:	DEGREE AND MAJOR:	DATE CONFERRED:
Radcliffe College:	1938-1940:	A.B.M. English:	1940:
The City College:	1956-1959:	M.S. Elem. Ed.:	1959:
New York University:	1964-1966:	Ph.D. Educ. Psych.:	1966:

B. ADDITIONAL HIGHER EDUCATION AND/OR EDUCATION IN PROGRESS:

INSTITUTION:	DATES ATTENDED:	COURSES, ETC.:
New School of Social Research:	1969:	Psychology Courses: Individual Testing of Intelligence--Binet, Misc.
American Academy of Neurology:	1971:	Course in Neurological Implication of Learning Disorders:
National Academy of Sciences, NRC:	1972:	Course in Minimal Brain Dysfunctions: Implications for Learning:

RUTH M. ADAMS

EXPERIENCE:

A. TEACHING:

INSTITUTION:	DATES:	RANK:	DEPARTMENT:
The City College:	1/69 -- present:	Assoc. Prof.	Elem. Ed.
	1965-1969:	Asst. Prof.	Elem. Ed.
	1962-1965:	Lecturer, Part-time	Elem. Ed.
	1960-1962:	Lecturer	Elem. Ed.
Board of Education, NYC:	1964-1965:	Supervisor, Reading Improvement Teachers, N.Y.C.	Elementary Schools Division
	1958-60; 1962-64:	JHS Eng. Teacher:	JHS 104 Man.
	1956-1958:	Elementary School Teacher	NYC Public Schools PS 15, 19, 40
Friends Academy Locust Valley, N.Y.	1942-43:	Teacher:	Elementary grades
Dalton Schools, N.Y.C.	1940-42:	Teacher:	Elementary grades

B. OTHER:

Free Lance Writer:	1944-1949:	Wrote article and short stories; Mystery Series on Brooklyn Dodger and Yankee Baseball Games-Published in Town and Villane and Villager newspapers:
Private practice:	1965-	Educational Evaluations:
Friend Seminary, NYC:	1965-	Educational Consultant:

RUTH R. ADAMS

ACADEMIC AND PROFESSIONAL HONORS

Phi Beta Kappa	1939
Mary and Augustus Bernard Scholarship at Radcliffe College	1939
Mary Putnam Hart Prize "for best general examination in English" Radcliffe College	1940
A.B., Magna Cum Laude, Radcliffe College	1940
Phi Lambda Theta Society Doctoral Award	1965
"Certificate of Appreciation" from CUNY for work in College Discovery Program	1965

PUBLICATIONS (Last Five Years)

1. ARTICLES AND BOOKS

Reading Action Packet: "Guide for Beginning Teachers of Reading, Grades 1-4" and "A Guide for Beginning Teachers of Reading, Grades 5-8". N.Y.C. Board of Education Curriculum Bulletins, 1967-68.

Curriculum Bulletin in the Language Arts K-2. NYC Board of Education, 1968.

"A Study in Concept and Attention Growth of Young Children," Elementary English, February 1970

"Notes on An Evaluation of the Written Composition of High School Students in Five College Discovery Centers in New York City," Reading and Realism, J. Allen Figurel, editor, 1969.

"The Identification of the Retarded Reader Within the School System," Published as part of the Health, Education, and Welfare National Advisory Committee on Reading Report: Dyslexia is Related Reading Disorders, June 1969.

"Early Identification of Potentially Retarded Readers Within the School System," (Chapter) in Reading Forum, NINDS Monograph, No. II, 1971.

"Concepts and Attention Growth of Young Children" ERIC Early Childhood Abstracts, Nov. 1971

2. RESEARCH REPORTS (PUBLISHED)

An Evaluation of the Written Composition of High School Students in Five Five College Discovery Centers, Research Report 68-8, Office of Research and Evaluation of CUNY, 1968.

The Themes They Choose: Disadvantaged Students Take a Composition Test, Research Report 69-5 Office of Research and Evaluation of CUNY, 1969.

3. REVIEWS (Regular contributor to section "Previews and Reviews," Film News Magazine)

Reviews of the following films: (1970 to present)

"Denmark'43: The Nazi Occupation and Flight of the Jews"

"I's Going To School Today" and "I'm Ready to Learn". Films from the Australian News and Information Bureau of Education

"Critical Moments in Teaching" Films designed for Teacher Training

"How Was School Today, Enrique?"

"Glasser on Schools"

"ACI Beginning to Read Films"

4. OTHER

"Afro-American at Work" (with Rubie S. Carter) Urban Community Kit. Office of Curriculum Publications, NYC Board of Education, 1969

MEMBERSHIP IN LEARNED SOCIETIES

American Psychological Association
International Reading Association, National and Local Chapters
National Council for the Social Studies
National Council of Teachers of English
Phi Beta Kappa
Orton Society
Pi Lambda Theta
Reading Clinicians Group

APPENDIX

COMMUNITY AND COLLEGE SERVICE

Departmental Committees

Member of Educational Policies Committee - Elementary Education Department	1967-1969
Chairman of Ad Hoc Committee on Criteria for Student Teaching Centers	1967-1968
Secretary to Elementary Education Department	1968-1970
Chairman - Department Committee on Student Teaching	1967-1969
Member Ad Hoc Committee to Study Skills	1967-1968
Member of Ad Hoc Committee (and later) Chairman of Ad Hoc Committee on the Role of the Clinical Instructor	1967-1968
Chairman Orientation Committee for new student teachers.	Spring 1968
Chairman of Ad Hoc Committee on Evaluation of the Undergraduate Program of the Elementary Education Department. Later wrote report with Prof. Brooks.	June 1970
Member of Appointments Committee of Department of Elementary Education	1969-1970
Committee on Committees - Department of Elementary Education	1969-1971
Member Appointments Committee - Dept. of Elementary Education	1971-present
Member of Curriculum Committee - Dept. of Elementary Education	1971-1973
Chairman, Bilingual Education Day at CCNY--Summer -	1973

School of Education Committees

Committee for Tarrytown Conference for School of Education	1967
Dept. representative to School of Education Committee on Student Teaching and Field Work	1967-1968
Member of Affiliated Schools Committee	1968
Chairman	1968-1973
Chairman of Ad Hoc Committee to write a proposal for a learning Cooperative	1971
School of Education representative to Open Admissions Conference and Co-Chairman of Workshop on Testing and Placement	March 25, 1971
School of Education Ad Hoc Committee on Drugs and helped plan two conferences	Jan. 1971
Member of the Executive Council of the Urban Institute of the School of Education	1970-1972
Member of the Advisory Committee of the Pilot Program	1970-1971
Member of College-Local School District Liaison Committees in District 5 and District 6	1970-1973

School of Education Committees (continued)

Member of College-School-Parent Liaison Committees at P.S. 129, 161, and 123	1970-1973
Member of Ad Hoc Committee to Develop an Arts Center at P.S. 192	1970-1973
Represented School of Education at State Department of Education Conference in Albany on Changes in Teacher Certification in relation to the Preparation of Teachers of Reading	December 1970
Panel member at Convocation of School of Education's 50th Anniversary	Dec. 3, 1971
Member of Ad Hoc Committee - Competency Based Education	1971-72
Member of Ad Hoc Committee - Student Evaluation of Faculty	1971-72
Member of two Ad Hoc Committees Involved with Implementation of Directions Committee Report	1971-72
Member of Committee on Evaluation of Brooklyn College Program of Competency Based on Education	1971-72

College Committees

City College Representative for the Annual Teacher Education Conference	1969-1970
Represented Dean Bortner at the City College Alumni Club Awards Meetings at the Roosevelt Hotel	1968-1969
Member of President Gallagher's Committee on Campus Security	1968-1969 1969-1970
Acted as Faculty Mentor for a group of Open Admission Freshmen and worked with Dean DeBerry - meetings at college and home	1970-1971
Elected to Faculty Senate	May, 1971

City University Committees

Participant and planner of College Discovery Conference	Dec. 14, 1968
City College Representative for the Board of Higher Education Interagency Committee on Open Admissions; Co-Chairman of the English and Speech Committee	1970-72

Community Services

Speaker "Bilingual Institute for Parents and Community." Urban Affairs Committee	Nov. 9, 1967
Set up individual tutoring program (student teachers-pupils) at P.S. 161	1970-1971

Community Services (continued)

Part of Elmsford Survey for City College - Language Arts Consultant	March 1969
Arranged with Professor Shapiro of the Music Department and with the Speech Department for Concerts and plays given in local schools	
Made two speeches for the Speakers Bureau of City College at P.S. 104 Bronx	Dec. 19, 1971 Jan. 24, 1972
Spoke to Parents Association of P.S. 161	Oct. 13, 1971
Represented City College at College Day at Harlem Preparatory School	Nov. 19, 1971
Usefulness to Community: Organized and was in charge of a knitting club for neighborhood girls at P.S. 161 Manhattan after school	1971-1972

Administrative Responsibility

Course Chairman for Ed. 71711	1968-1971
Assistant to Chairman, Department of Elementary Education	Fall 1970; 1971-72
Acting Program Head (with Prof. Natchez) of the Graduate Reading Program	Spring 1971
Chairman - Department of Elementary Education	1972-1975

Lectures

New York College of Music summer institute in the humanities - two lectures on children's literature, Summer 1967

N.Y.C. District 2: Workshop for New Teachers. Two lectures + demonstration. Reading in Intermediate School, Aug. 1967

Guest lecturer in Diagnosis and Correction of Reading Disabilities course at Hunter College, Sept. and Oct. 1967

District 6 Orientation Conferences for New Teachers - 2 lectures on Causes of Reading Difficulties and Reading in the Content Areas, Sept. 1967

Lecture given to para-professional group at Responsive Environment Center in Brooklyn. Using Materials Creatively, October 1967

Appeared on Channel 25, Educational Television, New Developments in Reading, February 1968

Conducted colloquium at the Alfred Binet Center, Muskegon, Michigan. Topic: Learning Disorders, August 6 & 7, 1970.

Lectures (continued)

Conducted two day workshop for all first and second grade teachers in Winchester, Kentucky. Topic: Preventing Reading Failure, August 18 and 19, 1970
Conducted seminar for Byram Hills District (Westchester) Topic: Individualizing Instruction, March 1, 1971

Consultant Experience

College Discovery and Development Program - City University Consultant in English
Board of Cooperative Educational Services - Second Supervisory District of Westchester County - Consultant in Reading; Participant in Institutes and Workshops
District #2 N.Y.C. Study of Early Prevention of Reading Difficulties, Board of Education of the City of New York Corrective Reading Program
Non-Public Day Schools - Consultant - Corrective Reading
Elmsford Study - conducted by City College. Consultant in Language Arts.
Title III, Umbrella 2 - Coordinator of Evaluation Project Curriculum and Teacher Growth
Institute for Educational Development - Evaluation of State-Funded Projects in New York City School Districts
Responsive Environment Program, Brooklyn, New York Curriculum Consultant
Consultant to Friends Seminary, New York City
Consultant to Curriculum Division - Bd. of Education, N.Y.C.
Consultant for Institute for Educational Development in District 14, Brooklyn, 1971-1972

Participation in Meetings of Professional Organizations

Speaker for Sigma Alpha Honor Society of the Baruch School - How far Behind the Times is Modern Education - March 31, 1967
Discussion Moderator - Lake Minnewaska Conference (College Discovery), Nov. 1966
1967 Summer Workshop Institute - Board of Cooperative Educational Services - Planning Committee. 4 Lectures June, July 1967
Conference Participant in Washington, D.C. at the Children's Hospital, Neurological Implications of Learning Disabilities, April 1967
Faculty Conference, J.H.S. 167 M. Topic: A New Look at Reading on the J.H.S. Level, Feb. 27, 1968

Participation in Meetings of Professional Organizations (continued)

Midwinter Conference of Westchester Board of Cooperative Educational Services. Keynote Speaker: Reading and Disadvantaged Children, February 15, 1968
District 6 Conference for Association of Grade Teachers: Reading in the Content Areas, March 9, 1968
Speaker at Manhattan Chapter of International Reading Association: Concept Growth of Young Children, March 13, 1968
ASCD Conference. Chicago. Participated in Seminar on Micro-teaching as Related to Supervision, March 14-17, 1968
International Reading Association Annual Meeting. Kansas City Missouri. Paper read: A Study in Attention and Concept Growth of Young Children, May 1968
International Reading Association Conference in Atlantic City (Sessions on Micro-teaching), April 12, 1971
Participant in Conference Puerto Rican Students at Radcliffe and Harvard. Harvard-Radcliffe Club Program, November, 1970
Bureau of Child Guidance Conference Speaker. Topic: Overview of Learning Problems on the Secondary Level - June 1971
Speaker at IRA Conference in Detroit. "Responsive Environment and Creative Approaches in Language Arts". - May 1972
Speaker at AAUW Education Workshop. "Do All Roads Lead to Reading?" - May 1972
Speaker at International Reading Association Meeting: "Variables that Support Learning." - Oct 1972
Speaker at TTT Colloquium - "Variables That Affect Reading Program" - Nov 1972
Speaker at Open Education Conference at City College. "The Administrator's Role in Reading Programs." - May 1973

Unpublished Works of a Service Nature

"Programs for the Disadvantaged: A Report on the 1966 Teacher Education Conference." Teacher Education News and Notes, Jan. 1967
"Role of the Tutor in the College Discovery Program." College Discovery News, Dec. 1968
"Project Director's Report on the Evaluation of Umbrella II Projects in Curriculum and Teaching," June 1969
Selected Materials for Use with Retarded Readers - an annual publication of the Reading Center of City College. 1968, 1970, 1972. (This printed publication is sent out nation-wide each year.)
Interaction - Video-tape for developing communication skills. City College Television Studio. 1970-71
"Validity of Existing Measures of Beginning Reading in Relation to the Bantar Reading Program" - January, 1971. (for the Institute of Educational Development, NYC)

Unpublished Works of a Service Nature (continued)

"An Evaluation of District Decentralized Projects, ESEA Title I Program in Community School District 24, N.Y.C." (for the Institute of Educational Development) August 1972
Bilingual Reading Lessons at P.S. 192 — Video tape for teacher training. Feb 1973

WORKS IN PRESS

Book (is finished and will be published by the Anti-Defamation League of the B'Nai Brith. Mr. Stanley Wexler is the editor of publications): Reading-Preventing Failure: Fostering Success.
(See attached letter.)

Grants and Contracts Awarded

National Right to Read Technical Assistance Team Member — Northeast Region of U.S. Jan. 1972 - Aug. 1973
Urban Teacher Corps Grant for Training Bilingual Interns — May 1973

Courses Taught at the City College

Ed.	71746	Diagnosis and Treatment of Learning Disabilities
Ed.	71711	Teaching of Reading (Advanced Course) Course Chairman
Ed.	71718	Selection and Development of Reading Materials
Ed.	71715	Diagnosis and Treatment of Reading Disabilities
Ed.	71716.1	First and Second Practicums in
Ed.	71716.2	Reading Disabilities
Ed.	71716	Advanced Practicum in Reading Disabilities
Ed.	74745	Administration and Supervision of Reading Programs
Ed.	111-112	Curriculum and Teaching in Elementary Education
Ed.	175	Teaching of Reading (undergraduate course)
Ed.	71705	Curriculum Enrichment Through Children's Literature
Ed.	75701	Research Seminar

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF
PUBLIC SCHOOL 25, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF
COMMUNITY SCHOOL DISTRICT NO. 24
OF THE CITY OF NEW YORK, et al.,

Defendants.

STATE OF NEW YORK)
: ss.:
COUNTY OF NASSAU)

CARMEN TIRADO, being duly sworn, deposes and says:

1. I have made the study of the educational achievement of Puerto Rican children the paramount concern of my professional life since I began teaching in Puerto Rico in 1941. I taught at all levels of the educational system in Puerto Rico, from elementary school in rural areas to the University of Puerto Rico in Rio Piedras. My educational training includes a B.A. in Education, an M.A. in Linguistics (Teaching English as a Second Language) and I am presently a doctoral candidate at the Fordham University Graduate School of Education for a Doctorate in Urban Education. After leaving Puerto Rico, I became involved in the education of Puerto Rican children in New York City. I was Supervisor of the Bilingual and Local Educational Program of the Migration Division of the Commonwealth of Puerto Rico from 1962 to 1968. I then became directly involved with the New York City school system as

Director of Recruitment and Training of Spanish-speaking teachers for the Board of Education of the City of New York from 1968 to 1970 and also served as special assistant to the President of the Board of Education, Joseph Monserrat. Since 1970 I have been an Assistant Professor at Brooklyn College. I first taught in the Puerto Rican Studies Department. At the request of the College I developed and initiated the Bi-Lingual Program for the College which includes the Bi-Lingual Teacher Training Program of the School of Education, and I am presently an Assistant Professor in the School of Education.

2. I am personally familiar with the educational problems of the Puerto Rican childrep in District 14. I have been a consultant in the evaluation of federally-funded bi-lingual programs in the New York City School system, and in this capacity I participated in the evaluation of the Title VII bi-lingual program in District 14 in 1972. In the process of this evaluation, I became aware that there were many areas of the Program that needed substantial improvement in order to meet the needs of the Spanish-speaking children of the District.

3. Because of my concern about the need for direction and improvement of the educational program for the Puerto Rican children of District 14, the Dean of the School of Education at my request arranged with the Community Superintendent to place 23 students from our Bi-Lingual Teacher Training Program into the District schools in the Fall of 1972. Under these arrangements, which are commonly made between the School of Education and local school districts, the School of Education students receive laboratory experience credit for observing

and assisting classroom teachers in a Bi-lingual program in elementary schools. However, District Superintendent William Rogers assigned the students to schools in which there were no bi-lingual programs operating. In view of this fact the students were withdrawn at my request at the end of the term and placed in District 32 where they were afforded the opportunity of helping to provide bi-lingual instruction. As a result of this experience I developed grave reservations about the concern of the administration in District 14 for the education of Puerto Rican children.

4. I have discussed the situation at P.S. 19 with counsel for the plaintiffs. I understand that plaintiff children have been attending split-session classes for the first, second and third grades, and have never had comprehensive bi-lingual instruction. Additionally, I am familiar with the Community School Board's plan and how it would affect the fourth and fifth grade classes at P.S. 19.

5. As an educator with special knowledge of and concern for both the unique educational problems of Puerto Rican children and those they share with other disadvantaged minorities, I cannot emphasize strongly enough how harmful the effect of the double transfer would be on these Puerto Rican children, considering their previous wholly inadequate educational experience. In my opinion, for the reasons set forth below, such transfers would irreparably damage the opportunity of these Puerto Rican children to receive an adequate elementary school education.

56. There can be no doubt that the amount of scheduling and the actual length of the instructional school day has a determining effect on the education of the child. In the case of these children, the substantial amount of instructional time that has been lost because of split-session classes cannot help but have retarded their educational development. For this loss to have occurred in the early years of elementary education is especially harmful. These are the years when experiences had and instruction received in verbal and writing ability, reading comprehension and mathematics should be at a maximum. This is equally true for the absorption of other subject areas that our society and the children's own personal well being requires: social studies, science, health education and the arts. Furthermore, this loss of time drastically increases the chance that these children will be permanently hampered in their ability to properly master advanced learning.

57. Because these Puerto Rican children come from deprived socio-economic backgrounds, the continued maintenance of short-time education year after year and grade after grade until many hundreds of these children were so badly harmed for the first half of their elementary school education is an inexcusable educational practice.

58. This past educational deprivation is compounded by the present plans of the District Board. To transfer these children out of their neighborhood school to another school that is admittedly obsolete is educationally, physically and psychologically harmful. To transfer them again for the sixth grade to another school in a third neighborhood further compounds the injury. The deleterious effect of such transfers is well-known educationally and has been reported by various studies done by

the Board of Education. In order to achieve the psychological state in which children can learn effectively they need security, stability and a sense of belonging which can be best developed in a setting of physical continuity. When they must transfer to another school in another neighbourhood they lose this sense of psychological stability and require a length of time to adjust to their new surroundings. For the children of P.S. 19 this further time lost to their educational development exacerbates the original loss caused by split-session classes.

3. The children also suffer educationally because of the negative impact of this transience on the involvement of the parent in the child's education. In my many years of experience in Puerto Rico, I witnessed a long history and tradition of close ties, trust and cooperation between Puerto Rican parents and school staff. When I became involved in education in New York City, I realized that cultural differences often made it impossible for Puerto Rican parents to become involved in school matters in the fashion to which they were accustomed. I also realized that often the school staff did not understand this and interpreted the different behavior as lack of interest and involvement. These cultural barriers must be overcome if the parental involvement necessary to the educational development of the child is to take place. To be able to bring about this understanding, it is not only desirable, but necessary, for parents and staff to have sufficient time to get to know each other and develop the kind of ties and understanding that will enhance the children's learning capabilities. The transfer of these children so that

they will attend three different schools during their elementary school years will place severe obstacles in the path of the development of this crucial involvement. Further, the transfer to P.S. 122 over the protests of the parents of P.S. 19 practically precludes the kind of cooperation that is necessary for this viral parental involvement.

10. The child's education is additionally harmed by the disorganizing effects of the double transfer on the teaching staff. Education is a developmental process. As a teacher, I know that in order to effectively educate children, teachers need immediate access to information about the history of the performance of the child and the child's previous classroom experience. Written records of past performance are an inadequate substitute for the availability in one physical setting of personnel who previously interacted with the child or his family. Teachers also need to confidently expect the reinforcement and amplification of their present efforts in future grades. They must feel that they are part of a process - a link in a chain. The division of the elementary school education into three separate segments isolates the teaching staff from each other and prevents the necessary cohesiveness and interaction. The loss of this interaction frustrates teachers' efforts and negatively affects the child.

11. The Puerto Rican children of P.S. 19 have suffered from the lack of any program which attempts to take cognizance of and educationally respond to the reality that their everyday life is conducted almost entirely in Spanish. In order to educate these children effectively, schools must provide a coordinated, developmental educational program that will take this reality into account in a positive way and stimulate learning. Of special concern to me is the fact that I do not see

this type of educational program being developed and offered to those children to offset and redeem the educational harm that forced transfers would cause. I see no sound instructional program that will give these children a real opportunity to acquire basic skills as well as develop the proficiency in the English language which will allow them to compete on an equal basis with the other children in the District and in the city.

12. In conclusion, it is my opinion that the present plan to transfer these children to P.S. 122 will irreparably harm their education.

CARMEN DINOS

Sworn to before me this
10th day of July, 1974.

NOTARY PUBLIC

PATRICIA VERCANTA
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4620645
Qual. Filed in New York County
Commission Expires March 30, 1976

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.,	
Plaintiffs,	74 Civ. 783 (JBW)
-against-	A F F I D A V I T OF
COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al.,	MICHAEL STEWART McCOLGAN
Defendants.	

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

MICHAEL STEWART McCOLGAN, being duly sworn, deposes and says that:

1. I am an educator who has specialized in the education of children who are learning a second language. I received my B.A. from Marquette University in 1963 and my Ed. D. from Columbia University Teachers College in 1972 with specializations in English as a second language, bilingual education and educational administration. I have experience both in teaching and administering bilingual educational programs, which is set out in my attached resume.

2. I have had direct experience with the educational problems of the New York City school system, having taught and administered bilingual educational programs in the Bronx and Manhattan, and this September I will assume the position of bilingual education for the elementary and intermediate schools

first six years of education. These children have

in Community School District #23 in Brooklyn.

3. I have discussed the facts in this case at length with counsel for the plaintiffs.

4. In this affidavit I will support two contentions: that pupil transiency is detrimental to scholastic achievement, particularly reading; and that minority language community children, such as Puerto Ricans, are more greatly disadvantaged by the ill effects of transiency than other children.

5. Educators and the Board of Education have long recognized the deleterious influence of pupil transiency on scholastic achievement. Although it may seem plausible that homogenizing the city school curriculum would forestall the malignant effects of transiency, this has not proved to be the case. The Board has conducted its own studies which showed convincingly that transient pupils had significantly and progressively lower reading levels than non-transient pupils.

6. In March 1963 the Bureau of Educational Program Research and Statistics of the Board of Education published the Kasindorf study[1] of the untoward effects that pupil transiency had upon their school performance. In the Introduction to the

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1. Blanche R. Kasindorf, "The Effect of Pupil Transiency on Pupil Functioning," Bureau of Educational Program Research and Statistics, Board of Education of the City Of New York, March 1963.

report Kasindorf makes the following general observations: "On an individual basis pupil transiency may be the partial or complete cause of many a child's educational and social maladjustment."[2] High transiency was defined in the report as admission to a city school three or more times.

7. Additionally, in 1968 the Office of Educational Research of the City School District of the City of New York reported the reading test results of the 1967-1968 testing, noted the Kasindorf and two similar studies and concluded:

> In every year since 1962 one out of every five or six pupils in New York City schools was transferred, admitted or discharged. This high rate of pupil mobility has an impact upon the learning of the children who are moving from one place to another and from one school to another.
>
> Research studies conducted by the Office of Educational Research show that the more frequently a pupil moves from one school district to another, the lower his comparative reading achievement will be. Three studies were conducted by (a) Kasindorf, (b)Frankel and Forlano, and (c)Justman. Based on standardized reading test data the performance of transient and non-transient pupils in disadvantaged areas in New York City were compared. The Justman study, based on 934 sixth grade pupils, found that the pupils who attended four or more schools during elementary school years functioned 12.1 school months below grade level in the third grade, and by the time they reached the sixth grade the per-

2. Quoted in a release from the Office of Education Information Services and Public Information, Board of Education of the City Of New York, May 25, 1961, p. 2. (The Kasindorf study is no longer available from the Board of Education, but is reported in the New York Herald-Tribune of April 15, 1963.)

formance of these same children was 16.6 school months below grade level in reading achievement. On the other hand, those pupils of stable residency who attended the same elementary school during the six-year period were 2.4 school months below grade level at the third grade but they achieved 1.7 school months above grade 3 level when they were in the sixth grade.

8. There is an important caveat in attempting to deal with the reports on pupil transiency: transiency is the purportedly sole variable. No attempt was made to descry varying effects of transiency among different pupil populations. That is, if transiency affected one group of students more than another group, it is not retrievable from the previously mentioned studies. In my opinion, the deleterious effects of transiency are more pronounced for minority language group children than for other groups of children.

9. Minority language group children are children whose ethnic and speech community is bilingual, the members of which are often, if not most often, dominant in the language other than English and many of whom are monolingual in that language or have severe difficulty with one or more of the recognized language competence skills in English. Among New York City school populations these children are more likely to have difficulties with English severe enough to affect their scholastic achievement or to deprive them of effective participation

3. "Summary of Citywide Reading Test Results for 1967-68," Office of Educational Research, City School District of the City of New York, November 1968, p. 6.

in the city school program altogether without provision of alternative educational programs than other groups of children.

10. Such minority language group children are highly represented at a school that is 95% or more Puerto Rican and Hispanic like P.S. 19, and in fact P.S. 19 has a high percentage of pupils with English language difficulties (Categories I and II according to the citywide Language Ability Scale rating). As of June 1974, 904 of the 1461 pupils enrolled at P.S. 19 --62%--had English language difficulties.[4]

11. The educational programs designed for such children require consistency, stability and continuous developmental operation over a period of consecutive years. These programs whether merely supplemental, compensatory language programs such as English as a Second Language programs or whether comprehensive alternative educational programs such as bilingual education services, require a great deal of pre-planning, supervision and constant evaluation to be successful.[5] Programs dealing with language deficiencies require all the sophisticated and technical and practical expertise that are needed by programs for the gifted, guidance programs, or programs for preschool children. In my opinion, pupil transiency inhibits the necessary continuity and forecloses the possibility of developing successful programs for children with English language deficiencies.

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4. October 1973 Language Ability Scale ratings. Board of Education.

5. This is evident in the hundreds of bilingual program proposals submitted annually to federal, state and local educational bureaus and agencies. It is also evident in the failure of the public school system to experience success in the schooling of language minority children, chiefly the Puerto Rican school populations, before the advent of broad implementation of carefully designed and maintained

12. Mobility harms Puerto Rican children in another way. Generally, the importance of parental involvement for any group of children may or may not be related to the school success of their children. However, for children who are not oriented to the English-speaking environment and culture of their schools, and whose development of self-concept and affective growth are at least as important as their cognitive development and academic progress, such as minority language group children, parental influence and assistance are regarded by professional educators as significant to scholastic success.

13. This is widely recognized in the guidelines laid down by public educational agencies for bilingual education programs. The federal government, in its ESEA Title VII guidelines, the State Education Department in its state law Chapter 992 (1974) guidelines, and the Board of Education, in its guidelines for programs implemented under Program 30 Module 5 and Program 76 Module 2B (1974-75) all require parental involvement in the educational programs funded by their agencies.

14. In June 1974, for a report on planning for bilingual education, I conducted an interview survey of school principals in New York City Community School District #6. An oft-repeated comment by the principals concerned the need to involve the parents of Hispanic and other language minority children in school decisions and in the life of the school generally. In many cases, limited parental involvement was cited as a large influence on the school dysfunctions of Hispanic children and on many children's lack of academic success.[6]

6. Michael Stewart McColgan, "Consultant's Report on Pre-Planning for Bilingual Education, Community School District 6," District 6, New York City, June 30, 1974, pp. 4-23, 25-27.

15. If the parents and children are repeatedly assigned to different schools, there can be expected to result a lack of coherent leadership and stability among schools' parental involvement in committees and advisory groups, in parents' and parent-teacher associations, and in workshops and in-service courses. In addition, parents who are paraprofessionals may wish to change schools with their children, reducing their own effectiveness as well as that of the school and district paraprofessional program. Parents whose children change schools often are less likely to come to know the teachers of their children and the various staff members of the school with whom it is usually recommended by educators that they maintain communication, such as guidance counselors, attendance teachers, medical personnel, and supervisors. In the case of children who are not themselves oriented to the school environment and to school services, such as minority language children, this disorganization and lack of organized support of the parents in the school program may likely be severly deleterious, more so than if the children were part of the English dominant culture and more easily able to participate meaningfully and effectively in the school. 61

16. In my opinion, because of the reasons stated above, the proposed transfer plan would result in irreparable injury to the educational development of the children at P.S. 16.

MICHAEL STEWART BRITTINGHAM

Sworn to before me this

2nd day of August, 1974

NOTARY PUBLIC

RESUME

BEST COPY AVAILABLE

Personal

Name:	Michael Stewart McColgan
Birth date:	December 6, 1942
Birth place:	Oak Park, Illinois
Social Security no.:	323-34-6083
Marital status:	Single

Education

EdD, Columbia University, 1972
Fields: English as a second language and bilingual education
Educational administration
Dissertation: "The Change Agent and Professional Innovation, with Special Reference to the Establishment of a Bilingual School in an Urban School System"
Supplementary graduate studies at Indiana University (comparative literature) and Hunter College, C.U.N.Y. (ESL)
AB, Marquette University, 1963

Administrative experience

1973 Regional college coordinator, Bilingual Ancillary Teachers Program, University of Puerto Rico, Rio Piedras
1969-72 Coordinator, Tri-Village Schools, Bronx Junior High School, The Bronx, New York
1969 Assistant to chief executive officer, Morris High School annex, The Bronx, New York
1968 Principal, St. Paul's night evening school, New York
1964-66 Administrator, Job Corps training programs, St. Elizabeth school, St. Mark school, St. Peter school, Catholic Youth Organization, Inc. Center and Post school, all of Chicago, Illinois

Teaching experience

1972-73 Assistant professor of English, University of Puerto Rico, regional college of Ponce
1972 Assistant professor of English, Catholic University of Puerto Rico, Ponce
1967-69 Teacher of English as a second language, Morris High School and Morris High School annex, The Bronx, New York
1968 Teacher of English, Morris evening high school, The Bronx
1967 Street teacher, English as a second language, Summer in the City, (N.E.D.-funded program), New York
1966-67 Teacher of English, Queens vocational high school, Long Island City, New York
1964-66 Teacher of English, Gordon technical high school, Chicago

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Organizational experience

1973 Originator and editor, English Policy and Practice, Ponce, Puerto Rico

1971-73 New York State Teachers of English to Speakers of Other Languages (NYSTESOL): elected member of the executive board

1971-72 Editor, NYSTESOL Idiom; chairman, NYSTESOL publications committee; coordinator, NYSTESOL community liaison committee

1972 Bilingual education conference sponsored by The Bilingual School and Hunter College; member of the planning committee; presentation of paper to panel

1972 Bilingual education conference sponsored by community school district 8 and Fordham University; member of the advisory board; presentation of paper to panel

1972 New York State TESOL conference; member of the planning committee; presentation of paper to panel

1973 Bilingual education conference sponsored by Yeshiva University and the Ann Bridges Academic Center; presentation of paper to panel

1973 New Jersey TESOL conference; presentation of paper to panel

Publications

[illegible]

[illegible]

[illegible]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF
PUBLIC SCHOOL 09, et al

Plaintiffs,

-against-

THE COMMUNITY SCHOOL BOARD OF
COMMUNITY SCHOOL DISTRICT NO. 14
OF THE CITY OF NEW YORK, et al

Defendants

AFFIDAVIT

74 CIV. 7823

(JBW)

DOGGY A. WILKERSON, being duly sworn, deposes and says, that:

1. I have been concerned and involved in the problems of the education of minority children for my entire professional life. I am presently Vice President of Medias Associates, Inc., a staff-development firm that contracts with school district to train teachers in educating inner-city and other children. Prior to my association with Medias, I was professor of education at Bedhive University, where I taught from 1963-73 and now hold the title Professor Emeritus at that institution. I earned the Ph.D. degree in education at New York University in 1958, having previously taken doctorall studies in education at the University of Michigan in 1953-56; and I earned the Master's degree in education in 1927 at the University of Kansas. To fully establish my expertise in this area, I have attached a copy of my Curriculum Vitae to this affidavit.

2. I am familiar with the facts in this case, having read the Complaint and spoken at length with counsel for the plaintiffs.

3. The deleterious impact of short-time and split-session classes on the educational development of children is beyond dispute among professional educators. The effect of the loss of the equivalent of one day of classes each week is particularly harmful during early childhood education because it is in these first few years that the fundamental skills of reading, writing and arithmetic are taught. Put

equally important during these years is the exposure, for the first time for many children, to the areas of social and physical sciences, to music and art, and to the socializing influence of disciplined group participation.

4. The loss of school time to minority children is an even greater handicap in their further education than it is for most children. The effect of this loss of education is further to reinforce the negative image many teachers hold of minority children; and, in return, the children soon learn to fulfill this negative image in a continuing downward spiral of poor education.

5. I believe that there is no justification for short-time classes in a modern educational program even for a short period of time, much less for a fourteen-year period.

6. The local community school board's response to this problem, however, has compounded the injury. Their first attempt to overcome the crowded situation at P.S. 19 by sending the third grade to P.S. 17 in 1970 was a very poor educational decision. Any transfer from one school to another school under a different administration and in a different neighborhood has a dislocating effect on children. It takes a long time for the student to adjust to his new surroundings and interrupts the educational process. While our educational system provides for a number of transfers and histases, these moves are for three- or four-year periods, as in the 6-3-3 pattern of school organization recommended about a decade ago by the Allen Committee and adopted by the Board of Education.

7. To transfer these children to a different school for a single year does not make educational sense. As a publication of the Board of Education, itself notes: "Data show that when a child moves from school to school several times during his [illegible] education suffers." (Office of

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7. To transfer these children to a different school for a single year does not make educational sense. As a publication of the Board of Education, itself notes: "Data show that when a child moves from school to school several times during his elementary school years, his education suffers." (Office of Educational Research, City School District of the City of New York, SUMMARY OF CITYWIDE READING TEST RESULTS FOR 1967-1968, November, 1968, p. 8.)

8. Now the District Board has decided to move the fourth and fifth grades to P.S. 122. This decision can have devastatingly dislocating effect on the children. Students at P.S. 19 now will be attending three separate schools in their first six years of education. These children have seemingly been singled out for a poor educational experience. First, they are placed in a completely segregated school with all the concomitant stigma. Second, they are given three years of split-session classes, and in effect, lose a whole half-year of educational instruction over that period. Third, they are sent for one year for their sixth grade to a totally different school. And now, they are being injured further by being transferred for their fourth and fifth grades. They have little chance of surviving that experience without substantially further stigmatizing impact and without suffering from an abbreviated and dislocated educational process.

9. The transfer to P.S. 122 has no redeeming qualities. On information and belief, the school has been partially closed for four years now pending the construction of a new school. The school was closed because it was an obsolete facility. While educational facilities are not the most decisive influence determining the quality of the educational experience, they are important. P.S. 122 is just not an appropriate site for these children who need the best facility and need a comprehensive remedial program to overcome the educational and stigmatizing handicap of their previous school experiences.

10. I believe that these children will be irreparably injured if the proposed transfer to P.S. 122 takes place.

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10. I believe that these children will be irreparably injured if the proposed transfer to P.S. 122 takes place.

Dorothy A. Wilkerson
DOROTHY A. WILKERSON

Sworn to before me this
1st day of August 1974

Virginia R. Carpenter
Notary Public

DOREY A. WILLEPSON

Mediax Associates, Inc.
21 Charles Street
Westport, Conn. 06880

MAIN PROFESSIONAL INTERESTS

Education of teachers for inner-city schools; compensatory education; curriculum development

EDUCATION

Public Schools of Kansas City, Mo. and Kansas City, Kansas
University of Kansas, A. B. (English), 1926
University of Kansas, M. A. (Education), 1927
University of Michigan (Doctoral study in Secondary Education), 1933-34
New York University, Ph.D (Higher Education), 1958

PROFESSIONAL EMPLOYMENT (noting last position at each institution)

Virginia State College, Professor of Education; Chairman, Department of Secondary Education, 1927-1935
Howard University, Associate Professor of Education, 1935-1943
President's Advisory Committee on Education, Research Associate, 1937-1939
Carnegie-Myrdal Study of the Negro in America (An American Dilemma), Research Associate, 1939-40 (on leave from Howard University)
United States Office of Price Administration, Education Specialist, 1942-43 (on leave from Howard University)
THE PEOPLE'S VOICE, Executive Editor 1944-48
Jefferson School of Social Science, Director of Curriculum, 1948-1956
Bishop College, Professor of Education; Director, Division of Education, 1959-60
Yeshiva University, Professor of Education, 1963-1973
Mediax Associates, Inc., Vice President, 1973-

CONSULTANT RELATIONSHIPS (partial list)

National Scholarship Service and Fund for Negro Students, National Jewish Congress, U.S. Office of Education, National Institute of Education, Mid-Continent Regional Educational Laboratory, National Laboratory for Higher Education, Afro-American Institute - New York University, Middle States Association of Colleges and Secondary Schools, Response to Educational Needs Project-District of Columbia Public Schools, Educational Testing Service

PROFESSIONAL AFFILIATIONS

American Educational Research Association
National Society for the Study of Education
Association for Supervision and Curriculum Development
Children's Television Workshop, Board of Advisors, Research Committee
Little Red School House, Chairman, Board of Directors
Foundation for Change, Board of Advisors
New Future Foundation, Board of Advisors
The Teachers Incorporated, Board of Directors

CIVIC AFFILIATIONS

The Carver Foundation of Norwalk, President
Norwalk Drug Abuse Committee, Board of Directors
National Association for the Advancement of Colored People
Greater Norwalk Community Council

BOOKS AND MONOGRAPHS

Special Problems of Negro Education. (President's Advisory Committee on Education, Staff Study No. 12) Washington: Government Printing Office, 1939. Pp. 171.

Agricultural Extension Services Among Negroes in the South. Washington: Conference of Presidents of Negro Land Grant Colleges, 1942.

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"Freedom -- Through Victory in War and Peace", in Rayford W. Logan (ed.), What the Negro Wants. Chapel Hill: University of North Carolina Press, 1944. Pp. 352.

"Improving College Performance in Integrated Education", in Lawrence C. Howard (ed.), Interinstitutional Cooperation in Higher Education. Milwaukee: Institute of Human Relations. University of Wisconsin, 1967. Pp. 555 (Co-author with Edmund W. Gordon).

"Selected Readings on the Disadvantaged Child", in Jerome Hellmuth (ed.), Disadvantaged Child, Vol. 1 Seattle: Special Child Publications, 1967. Pp. 499.

"The Negro School Movement in Virginia: From 'Equalization' to 'Integration'", in August Meier and Elliott Rudwick (eds.), The Making of Black America, Vol. II. New York: Atheneum, 1969. Pp. 507.

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"Compensatory Education?", in Stella Chess and Alexander Thomas (eds.), Annual Progress in Child Psychiatry and Child Development. New York: Brunner/Mazel, 1969. Pp. 700.

"The School, Delinquency, and the Children of the Poor", in Paul Graubard (ed.), Children Against Schools. Chicago: Follet Educational Corporation, 1969. Pp. 376.

"The Failure of Schools Serving the Black and Puerto Rican Poor", in Annette T. Rubinstein (ed.), Schools Against Children: The Case of Community Control. New York: Monthly Review Press, 1970. Pp. 299.

"Compensatory Education: Defining the Issues", in Jerome Hellmuth (ed.), Disadvantaged Child, Vol. 3. New York: Brunner/Mazel, 1970. Pp. 466.

"Compensatory Education", in Sheldon Marcus and Harry N. Rivlin (eds.), Conflicts in Urban Education. New York: Basic Books, 1970. Pp. 196.

"Compensatory Programs Across the Nation: A Critique". in A. Harry Passow (ed.), Reaching the Disadvantaged Learner. New York: Teachers College Press, 1970. Pp. 360.

"Compensatory Education and Powerlessness", in Dwight Allen and Jeffrey Hecht (eds.), Controversies in Education (Publication by W. B. Saunders Co. pending).

"Powerlessness and Ghetto Education", in Marvin Leiner (ed.), Children of the Cities: Education of the Powerless (publication by New American Library pending).

ARTICLES IN JOURNALS (Partial list)

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"The Vocational Education, Guidance and Placement of Negroes in the United States", Journal of Negro Education, 8: 462-488, July, 1939.

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"Class Differences in Our Schools" (review of Education and Income, by Patricia C. Sexton), Journal of Negro Education, 31: 155-157, Spring, 1962.

"Prevailing and Needed Emphases in Research on the Education of Disadvantaged Children and Youth", Journal of Negro Education, 33: 341-366, Summer, 1964.

"School Integration, Compensatory Education and the Civil Rights Movement in the North", Journal of Negro Education, 34: 300-309, Summer, 1965.

"Programs and Practices in Compensatory Education for Disadvantaged Children", Review of Educational Research, 35: 426-440, December, 1965.

"Report from the Slum" (review of Dark Ghetto, by Kenneth B. Clark), Teachers College Record, 67: 374-378, February, 1966.

"Compensatory Education", Southern Education Report, 4: 2-9, November, 1968.

"Blame the Negro Child!", Freedomways, 8: 340-346, Fall, 1968.

"The Ghetto School Struggles in Historical Perspective", Science and Society, 33: 130-139, Spring, 1969.

"Understanding the Black Child", Childhood Education, 46: 349-1970, pp. 351-354.

"Teaching the Black Experience", Practices and Theories (Journal of the National Culture Commons at New York City), 1971, pp. 353-356.

"How to Make Educational Research Relevant to the Urban Community", Journal of Negro Education, #3: 295-317, Fall, 1972.

PERSONAL

Born in Excelsior Springs, Missouri, 1935
Married to Yolanda E. Wilkerson, Teacher of Mathematics
Residence: 36 Tuck Road, South Norwalk, Connecticut 06854

- November, 1973

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 29, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 29 OF THE CITY OF NEW YORK, et al.,

Defendants.

AFFIDAVIT OF MARIA DARCY

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

MARIA DARCY, being duly sworn, deposes and says that:

1. I reside at 374 Rogers Avenue, Brooklyn, New York 11226.

2. My children, Sylvia, Rose, Lana and Natalie, have all gone to P.S. 29 since kindergarten. In September Sylvia will be in fifth grade, Rose in second grade, Lana in third grade and Natalie in fourth grade.

3. I am the President-elect of the Parents Association of P.S. 29, having been elected to that position in May, 1976, and I am a plaintiff in this case.

4. Ever since my children started going to P.S. 29, I have actively participated in parent efforts to improve the school. I have been concerned about overcrowding at the school because my children had to lose time in split-session classes. Through the years the parents have urged the principal and the Superintendent to build more space at P.S. 29 to end the overcrowding. After

nothing was done and after having to put up with the overcrowded conditions, we felt the best way to get something done was to go to court.

5. In May, after we went to court, Mr. Levine, Principal of P.S. 19 gave me a copy of a letter from Superintendent Rogers inviting me and other Parent Association parents to a meeting in the District Office on June 4, 1974 to talk about the overcrowding. (A copy of that letter is attached as Exhibit 1.)

6. Mr. Rogers did not come to the meeting. Mr. Carter, who used to be principal of P.S. 122, said that he was speaking for Mr. Rogers. He said that even though the Board had voted in May for a new building to be built as an annex to P.S. 19 to relieve the overcrowding, it would take a long time to be built and there had to be something done in the meantime. He said he was making two suggestions for the parents to talk over. One was that the fifth grade and five classes of the fourth grade would be transferred to St. Francis Prep, which the Board hoped to lease, and the other was that they be transferred to P.S. 122. Brother Lally came in late. Mr. Levine was there, too. The parents then asked Mr. Carter, Brother Lally and Mr. Levine questions about these proposals. Mr. Carter explained how many classrooms there were at P.S. 122 and said that they were on the third and fourth floors which had been vacant for a couple of years. He said that if the children were transferred to P.S. 122, it would be "as is", that there was no money to really improve the building. He said that the Central Board wouldn't spend any money to really improve it since they were building a new school to replace it. Then somebody asked how busses could be guaranteed, since busses had also been promised for the transferred sixth grade when they were sent to P.S. 17 which was farther than P.S. 122 and the Central Board had not supplied them. Brother Lally said that he himself

could guarantee them. When somebody asked how, he just repeated that he could guarantee them, and that the plan should be looked on as absolutely including busses. Then someone asked how long the transfers would be for, since when the sixth grade was transferred the parents were promised that it was going to be "temporary" and now they were sending away two other grades. Nobody really answered that. Brother Lally said that these transfers would be for fifth and fourth grade parents who wanted them. When somebody asked how many parents would have to want to do it to make it worthwhile, he said "Oh, it would have to be a significant number of parents".

7. On behalf of the Parents Association, I said we could make no decision without talking to the parents at large. Mr. Carter told Mr. Levine to arrange for parents' meetings at P.S. 19 for the afternoon and evening of June 11th to vote on the proposals. There would be two meetings so that as many parents as possible could come. We agreed that on June 12th the Parents Association would come back with the parents' decision.

8. I attended both parent meetings on June 11th, at which some 119 other parents altogether were present. After a lot of discussion at both meetings, parents went to the front of the auditorium and registered their decision. All but three parents out of the 119 voted against the proposals.

9. At the meetings and afterwards, parents talked about why they felt the plans were bad. They thought that the transfers wouldn't really help their children, who needed more help than usual after all the time they lost. Instead, the transfer seemed to be more second-hand treatment of their children. They remembered that when the sixth grade was sent to P.S. 17 that was

ferred the parents were promised that it was going to be "temporary" and now they were sending away two other grades. Nobody really answered that. Brother Lally said that these transfers would be for fifth and fourth grade parents who wanted them. When somebody asked how many parents would have to want to do it to make it worthwhile, he said "Oh, it would have to be a significant number of parents".

7. On behalf of the Parents Association, I said we could make no decision without talking to the parents at large. Mr. Carter told Mr. Levine to arrange for parents' meetings at P.S. 19 for the afternoon and evening of June 11th to vote on the proposals. There would be two meetings so that as many parents as possible could come. We agreed that on June 12th the Parents Association would come back with the parents' decision.

8. I attended both parent meetings on June 11th, at which some 119 other parents altogether were present. After a lot of discussion at both meetings, parents went to the front of the auditorium and registered their decision. All but three parents out of the 119 voted against the proposals.

9. At the meetings and afterwards, parents talked about why they felt the plans were bad. They thought that the transfers wouldn't really help their children, who needed more help than usual after all the time they lost. Instead, the transfer seemed to be more second-hand treatment of their children. They remembered that when the sixth grade was sent to P.S. 17 that was supposed to be temporary. As it is, P.S. 17 is already overcrowded to the point where it has to use the pre-fab classrooms in the yard which the local board has admitted are unsuitable

and a health hazard. Now this new plan would transfer out even more children and would mean that parents who have children in different grades would have to worry about children in three different schools in three different neighborhoods. To get to both P.S. 122 and P.S. 17, the children have to cross streets with a lot of traffic - Broadway for P.S. 122 and both Grand Street and Metropolitan Avenue for P.S. 17. It would make it really hard to check on how your children were doing and get involved with Parents Associations and staff if you had your children in three different schools.

10. Another thing the parents were angry about was P.S. 122. Everybody in Williamsburg knows what a bad school it is, that's why parents never wanted the children to go there when it was suggested before. It's old and doesn't have good facilities. It's so bad they took out all the P.S. 122 children and sent them to another school, I.S. 71, because the parents at P.S. 122 complained. They're going to tear it down and build a playground for I.S. 71 there. The parents couldn't understand why our particular children should continue to get this kind of treatment. The board seems to be stigmatizing our children. No other school in District 14 has been treated this way.

11. At the meeting June 12th, the vote was reported to Mr. Rogers. He said that the parents should come up with a solution. One of the parents said that some children were going to P.S. 19 who didn't live in the P.S. 19 zone and maybe they could be transferred out, but Mr. Levine said that there weren't that many and it would be like making the children go to P.S. 122.

12. After talking about it, the parents thought that there was another way to do something about the problem at P.S. 19.

both P.S. 122 and P.S. 17, the children have to cross streets with a lot of traffic - Broadway for P.S. 122 and both Grand Street and Metropolitan Avenue for P.S. 17. It would make it really hard to check on how your children were doing and get involved with Parents Associations and staff if you had your children in three different schools.

10. Another thing the parents were angry about was P.S. 122. Everybody in Williamsburg knows what a bad school it is, that's why parents never wanted the children to go there when it was suggested before. It's old and doesn't have good facilities. It's so bad they took out all the P.S. 122 children and sent them to another school, I.S. 71, because the parents at P.S. 122 complained. They're going to tear it down and build a playground for I.S. 71 there. The parents couldn't understand why our particular children should continue to get this kind of treatment. The board seems to be stigmatizing our children. No other school in District 14 has been treated this way.

11. At the meeting June 12th, the vote was reported to Mr. Rogers. He said that the parents should come up with a solution. One of the parents said that some children were going to P.S. 19 who didn't live in the P.S. 19 zone and maybe they could be transferred out, but Mr. Levine said that there weren't that many and it would be like making the children go to P.S. 122.

12. After talking about it, the parents thought that there was another way to do something about the problem at P.S. 19. There is a building that is in very good condition only a block from P.S. 19. It used to be a school, and the District Office is using it now. It has a lot of rooms and could easily be used like

an annex to P.S. 19. Since it is so close, the children could be fit into the programs at P.S. 19 very easily. The parents wouldn't have to worry about their children being all over the place, and we could all work together with the principal and staff at P.S. 19 to help the children make up the lost time.

13. We asked one of the school board members, Mr. Leroy Fredericks, to introduce this plan as a resolution at the meeting on June 26th. Then we found out that some other members of the school board put the transfer to P.S. 122 to be voted on at this meeting, even though the parents were against it and Brother Lally had said that a significant number of parents would have to be in favor of it to try it. A lot of parents came to this meeting and signed up to speak about why they wanted their children to go to a good building only a block from P.S. 19 instead of a bad school in a different neighborhood. But when they started to talk about our plan, only I and one other parent were allowed to speak before Brother Lally recognized Mr. Dellaiacono who moved to "table" our plan. Brother Lally wouldn't let any more people who were waiting speak. People got really angry and asked why he wouldn't let more people speak, but he wouldn't pay attention and he took a vote and six members voted to table our plan. Many people tried to get Brother Lally and the board to listen to us, but Brother Lally just asked the Secretary to vote on all the other resolutions one after another and said the meeting was "suspended" and nobody else was allowed to speak from the audience about anything. Six of the board members voted to transfer the children to P.S. 122. Angel Reyes, Luisa Rivera and Leroy Fredericks, the two Puerto Rican and the black members of the board, refused to vote.

14. As can be imagined, the parents are deeply opposed to the proposal as it now stands to send their children to P.S. 122 because they feel it would harm the children's education even more.

Maria Garcia
MARIA GARCIA

Sworn to before me this
5th day of August, 1974.

Patricia Wright
NOTARY PUBLIC

PATRICIA VERCETTI
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4520545
Cert. Filed in New York County
Commission Expires March 30, 1976

BOARD OF EDUCATION
THE CITY OF NEW YORK
OFFICE OF SCHOOL DISTRICT FOURTEEN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

Tel. 963-4800

WILLIAM A. ROGERS
Community Superintendent

May 31, 1974

Mrs. Ana Rivera, President
Parents Association
P.S. 19
325 So. 3d St.
Brooklyn, New York 11211

Dear Mrs. Rivera:

As you know, P.S. 19 is on a split session. Children, because of the overcrowding, are forced to miss precious school time. The Community School Board and myself are greatly concerned with this matter, and we would like to meet with you and other members of the Executive Board to discuss this situation on Tuesday afternoon at 1:30 p.m. in the District Office.

Very truly yours,

William A. Rogers
Community Superintendent
District 14

em

cc: Mr. Harold Levine
Mrs. Maria Garcia, President Elect
Mr. Miguel Rivera, Treasurer
Mrs. Joan Hurley, Vice President
Mrs. Connie Maldonado, Secretary

EXHIBIT I

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

105

----------X

PARENTS' COMMITTEE OF
PUBLIC SCHOOL # 19, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF
COMMUNITY SCHOOL DISTRICT #14
OF THE CITY OF NEW YORK, et al.,

Defendants.

74 Civ. 783

(J.B.W.)

AFFIDAVIT OF JULIAN NESKI

----------X

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

JULIAN NESKI, being duly sworn, deposes and says, that:

1. I am an architect, registered and licensed in the State of New York, and a Fellow of the American Institute of Architects. I am familiar with the design and construction of school buildings, having been the Design Architect for Junior High School No. 43 and Public School 306 in Brooklyn, New York; I am therefore aware of Building Code requirements for educational facilities in the City of New York.

I am presently a partner in the firm of NESKI ASSOCIATES ARCHITECTS, 18 East 53rd Street, New York, New York.

I received my professional education at Rensselaer Polytechnic Institute, and have taught in the Departments of Architecture at Pratt Institute, Cooper Union and Columbia University.

To fully establish my qualifications, I have attached a copy of my firms' Curriculum Vitae to the Affidavit.

2. I am familiar with the facts in this case having spoken at length with counsel for plaintiffs.

3. On the 29th day of July, 1974, at approximately 2:00 P.M., I, with counsel for plaintiffs and Community Superintendent Rogers and with the permission of Corporation Counsel, made an inspection of P.S. 122, the transferee school, lasting approximately one-half hour. Although this was not a detailed inspection, I feel that I got a good indication of the adequacies and the inadequacies of the building.

4. It is my professional opinion that P.S. 122 does not at present meet decent physical standards for the instruction of elementary school students and in fact has existing conditions which are hazardous and illegal as follows:

a) The two major stairways at the ends of the building are not properly separated from the rest of the structure by masonry construction having at least a 2 hour fire-resistance rating in accordance with Section C26-604.8(i) of the Administrative Code of the City of New York (Building Code);

b) There are no doors providing access to the stairs as required by Section C26-604.4 of the Building Code. These doors must be rated at 3/4 hour fire protection;

c) Doors to existing toilets open to stairways which is prohibited by Section C26-604.8(j) of the Building Code;

d) Exit signs do not conform to Section C26-606.3 of the Building Code because such signs must be

illuminated with proper phosphorescent backgrounds;

e) Doors leading to central exit stair do not conform to Section C26-604.4 of the Building Code lacking the necessary fire protection rating and also obstruct passage on the landings;

f) Doors from classrooms to the corridor do not conform to requirements of Section C26-604.4(b) of the Building Code. These doors must be self-closing with a 3/4 hour fire protection rating;

g) Glazing in corridors does not conform to requirements of Section C26-604.2(i). Existing glass is illegal as to type and size; and

h) Exits from basement cafeteria, gymnasium, kitchen and boiler room are inadequate and unmarked.

In general therefore, the means of egress in the structure do not in my opinion conform to the requirements of the Building Code of the City of New York. In the event of a fire the exit stairs would become a flue shaft for gases and smoke--an extremely hazardous condition.

5. Apart from deficiencies and illegalities in the matter of egress and safety, there are other physical inadequacies as follows:

a) The general appearance of the basement cafeteria and gymnasium is most deplorable, looking more like a dungeon in one of our more backward penal institutions. There is little or no natural light since the few available windows are glazed with obscure

glass. The artificial lighting is primitive, consisting of bare overhead bulbs;

b) The mechanical ventilation system required by the Building Code for the basement--a public assembly space--appears to be inadequate;

c) The boiler room, a hazardous space, is adjacent to the public assembly areas, and its door is illegal and should be a self-closing rated door as per Section C26-704.2 of the Building Code;

d) There are no toilets for the children on the basement or 1st floor--a condition which will not encourage sanitary practices by the children;

e) The kitchen has a primitive gas range without a hood which is a hazardous condition;

f) There is evidence of serious water leaks in the basement and elsewhere;

g) Artificial lighting throughout the structure is grossly inadequate for modern educational needs;

h) Many of the window frames are rotted and require replacement or repair. There are also many broken windows;

i) Wooden flooring in classrooms in some instances is warped severely making for a hazardous condition. In addition, the wood floors are not properly finished for proper maintenance and sanitation;

[illegible]

[illegible] ASSOCIATES ARCHITECTS

[illegible] AIA

Education: [illegible] Polytechnic Institute
Bachelor of Architecture 1938 –

The New School

Registration: New York
New Jersey
Massachusetts
National Council of Architectural
Registration Boards

Teaching: Design Critic: Pratt Institute 1957–59
Cooper Union 1966–68
Columbia 1971–

Member: American Institute of Architects
Ethics Committee

Honors: College of Fellows, American Institute of Architects

[illegible] AIA

Education: Dennison College
Bachelor of Arts 1949

Harvard Graduate School of Design
Master of Architecture 1951

Member: American Institute of Architects
Alumni Council, Harvard Graduate School of Design

Registration: New York

Teaching: City College of New York University 1974–

[illegible] ASSOCIATES ARCHITECTS

ASSOCIATES

[illegible]

Education: Massachusetts Institute of Technology
Master of Architecture 1958

Registration: New York
Texas
NCARB

[illegible]

Education: University Stuttgart, Germany
Master of Architecture 1962

Registration: New York

AWARDS

A.I.A. Citation:	Exhibition on American Architecture sent to the USSR in 1958
A.I.A. Honorable Mention:	Homes for Better Living Award 1968 Hamilton Residence
A.I.A. First Honor Award:	Homes for Better Living Award 1969 Gorman Residence
Record Houses of 1968	Architectural Record Award of Excellence for House Design Hamilton Residence
Record Houses of 1969	Architectural Record Award of Excellence for House Design Gorman Residence
Record Houses of 1971	Architectural Record Award of Excellence for House Design Sabel Residence
Record Houses of 1972	Architecural Record Award of Excellence for House Design Kaplan Residence
Record Houses of 1973	Architectural Record Award of Excellence for House Design Simon Residence
A.I.A. Special Mention:	Residential Design Awards 1971 Cates Residence
A.I.A. Citation:	Residential Design Awards 1972 Simon Residence

EXHIBITS:	Jewish Museum 1960	"Recent American Synagogue Architecture" Temple Emanu-El of West Essex
	U.S. Plywood Show 1968	Chalif Residence
	Expo Fair U.S. Pavilion	Chalif Residence 1970 Japan
PUBLICITY:	New York Times Magazine	Chalif, Neski, Kaplan and Simon Residence
	Designs for Young Living by Barbara Plumb	Neski Residence
	New York Times	Gorman, Hamilton and Cates Residences, Moscow Exhibit
	Zodiac	American Issue 1961
	Life	Russell Residence
	Time	Moscow Exhibit
	Look	Chalif Residence
	Art in America	Chalif Residence
	A.I.A. Journal	Chalif Residence
	Architectural Forum	Professional Building," J.H.S.43 Chalif Residence, Pelham Parkwa Community Center
	Architectural Record	Gorman, Hamilton, Sabel, Kaplan and Simon Residences
	Progressive Architecture	Pelham Parkway Community Center
	New York Magazine	Chalif Residence
	A.I.A. Guide to New York City	J.H.S. 43 and P.S. 306
	A.I.A. Oculus	Lobby and Auditorium renovation A.I.A. Headquarters

SELECTED BUILDINGS and PROJECTS

1957-64	"Cities USA" Exhibition sent to Moscow University USSR, Sponsored by the American Institute of Architects	
	Hollis Unitarian Church Hollis, L.I., N.Y.	($300,000.00)
	Professional Office Building New Brunswick, N.J.	($175,000.00)
	U.S. Pavilion U.S. Exhibition in Moscow	($750,000.00)
	Plants and Offices Allan - Stevens Corporation Long Island City, N.Y.	($350,000.00)
	Temple Emanu-El Livingston, N.J.	($350,000.00)
	Community Center / Parish House Church of St. Matthew and St. Timothy New York	($300,000.00)
	Exhibition for Time Inc. Time and Life Building, N.Y.	($100,000.00)
	Office Planning Readers Digest	($300,000.00)
	Junior High School 43 Brooklyn, N.Y.	($4,000,000.00)
	Public School 306 Brooklyn, N.Y.	($3,000,000.00)
	Administration Building and Master Plan Old Bethpage Historic Village	($1,800,000.00)
	Seward Park Urban Renewal Project	

1964 to Present

Chalif Residence	Easthampton, N.Y.	($ 100,000.00)
Hamilton Residence	Stony Brook, N.Y.	($ 85,000.00)
Tanatex Chemical Corp., Offices and Laboratory Project	Lyndhurst, N.J.	($ 500,000.00)
Gorman Residence	Amagansett, N.Y.	($ 60,000.00)
Batten Residence	Mill Neck, N.Y.	($ 600,000.00)
Tivoli Towers Apartments (Design Consultant)	Brooklyn, N.Y.	($6,500,000.00)
Law Offices	London, Buttenweiser and Chalif New York City	($ 150,000.00)
Kaplan Residence	Easthampton, N.Y.	($ 100,000.00)
Cates Residence	Barnes Landing, N.Y.	($ 100,000.00)
Sabel Residence	Bridgehampton, N.Y.	($ 100,000.00)
Simon Residence	Remsenburg, N.Y.	($ 90,000.00)
Frisch Residence	Ashley Falls, Mass.	($ 100,000.00)
Pelham Parkway Community Center for NYC Parks Department		($2,500,000.00)
Freedom House / A.I.A. Headquarters Renovation		($ 100,000.00)

REFERENCES:

Clients

Mr. Henri Doll
18 East 78 Street
New York, N.Y. 10021 212 249 4460

Dr. Leonard Hamilton
Director of Medicine
Brookhaven National Laboratory 516 YA4 6202

Mr Leonard Sussman
Executive Director
Freedom House, Wendell Willkie Memorial
212 565 3344

Mr. William Batten
Chairman of the Board
J.C. Penney
1301 Ave of the Americas
New York, N.Y. 212 957 6638

Contractors

Mr. Frank McGratty
Wm. Crawford Builders Inc.
475 Fifth Ave.
New York N.Y. 10017 212 889 5844